

MONTANA LEGISLATIVE HISTORY

Chapter 499 ~~200~~ 2007

Bill H SB 103 Original bill & history c

H. Committee on Natural Resources

S. Committee on Local Gov

Hearing Date(s) H 3/16 c

Hearing Date(s) h 1/16 c

V 329 c

V 2/14 c

_____ c

_____ c

_____ c

_____ c

Date Out _____ c

Did this bill originate in an interim committee? Yes No

Committee _____

Report _____

Conference 4/24

Montana
Legislative
Branch

Montana Legislature

Detailed Bill Information



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Bill Draft Number: LC0421 **Current Bill Text:** [HTML](#) [PDF](#) (w/line numbers) **NEW**

Bill Type - Number: SB 103

Short Title: Revise local government fire protection laws

Primary Sponsor: Greg Lind

Chapter Number: 499

Bill Actions - Current Bill Progress: Became Law

Bill Action Count: 69

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Action - Most Recent First	Date	Votes Yes	Votes No	Committee
Chapter Number Assigned	05/16/2007			
(S) Signed by Governor	05/16/2007			
(S) Transmitted to Governor	05/10/2007			
(H) Signed by Speaker	05/10/2007			
(S) Signed by President	05/09/2007			
(S) Returned from Enrolling	05/02/2007			
(C) Sent to Printing	05/01/2007			
(S) Sent to Enrolling	05/01/2007			
(H) 3rd Reading Free Conference Committee Report Adopted	04/27/2007	<u>73</u>	<u>26</u>	
(H) Scheduled for 3rd Reading	04/27/2007			
(S) 3rd Reading Conference Committee Report Adopted	04/26/2007	<u>50</u>	<u>0</u>	
(S) 2nd Reading Conference Committee Report Adopted on Voice Vote	04/26/2007	49	1	
(H) 2nd Reading Conference Committee Report Adopted	04/26/2007	<u>82</u>	<u>17</u>	
(S) Scheduled for 3rd Reading	04/26/2007			
(S) Scheduled for 2nd Reading	04/26/2007			

(S) Scheduled for 2nd Reading	04/26/2007			
(H) Scheduled for 2nd Reading	04/26/2007			
(S) Conference Committee Report Received	04/25/2007			
(H) Conference Committee Report Received	04/25/2007			
(S) Hearing	04/24/2007			(S) Conference
(S) Hearing	04/24/2007			(S) Conference
(H) Conference Committee Appointed	04/20/2007			
(S) Conference Committee Appointed	04/19/2007			
(S) 2nd Reading House Amendments Not Concurred	04/18/2007	<u>35</u>	<u>13</u>	
(S) Scheduled for 2nd Reading	04/18/2007			
(H) Returned to Senate with Amendments	03/31/2007			
(H) 3rd Reading Concurred	03/31/2007	<u>88</u>	<u>12</u>	
(H) Scheduled for 3rd Reading	03/31/2007			
(H) 2nd Reading Concurred	03/30/2007	<u>86</u>	<u>12</u>	
(H) Scheduled for 2nd Reading	03/30/2007			
(C) Sent to Printing	03/29/2007			
(H) Committee Report--Bill Concurred as Amended	03/29/2007			(H) Natural Resources
(H) Committee Executive Action--Bill Concurred as Amended	03/29/2007	16	0	(H) Natural Resources
(H) Hearing	03/16/2007			(H) Natural Resources
(H) Referred to Committee	03/05/2007			(H) Natural Resources
(H) First Reading	03/05/2007			
(S) Transmitted to House	02/21/2007			
(S) 3rd Reading Passed	02/21/2007	<u>45</u>	<u>5</u>	
(C) Sent to Printing	02/21/2007			
(S) Scheduled for 3rd Reading	02/21/2007			
(S) 2nd Reading Passed as Amended	02/20/2007	<u>42</u>	<u>7</u>	
(S) 2nd Reading Motion to Amend Failed	02/20/2007	<u>16</u>	<u>33</u>	
(S) 2nd Reading Motion to Amend Carried on Voice Vote	02/20/2007	49	0	
(S) Scheduled for 2nd Reading	02/20/2007			
(S) Scheduled for 2nd Reading	02/20/2007			
(S) 2nd Reading Passed Consideration	02/19/2007			
(S) Scheduled for 2nd Reading	02/19/2007			
(C) Sent to Printing	02/14/2007			

(S) Committee Report--Bill Passed as Amended	02/14/2007			(S) Local Government
(S) Committee Executive Action--Bill Passed as Amended	02/14/2007	6	5	(S) Local Government
(S) Hearing	01/16/2007			(S) Local Government
(S) First Reading	01/03/2007			
(S) Referred to Committee	12/20/2006			(S) Local Government
(C) Introduced Bill Text Available Electronically	12/15/2006			
(S) Introduced	12/15/2006			
(C) Pre-Introduction Letter Sent	12/11/2006			
(C) Pre-Introduction Letter Sent	11/15/2006			
(C) Draft in Assembly/Executive Director Review	11/15/2006			
(C) Draft in Final Drafter Review	11/15/2006			
(C) Draft in Input/Proofing	11/15/2006			
(C) Bill Draft Text Available Electronically	11/13/2006			
(C) Draft to Drafter - Edit Review [CMD]	11/13/2006			
(C) Draft in Edit	11/09/2006			
(C) Draft in Legal Review	11/09/2006			
(C) Draft to Requester for Review	11/09/2006			
(C) Draft Back for Redo	11/09/2006			
(C) Draft in Legal Review	11/08/2006			
(C) Draft to Requester for Review	11/08/2006			
(C) Draft Request Received	09/14/2006			

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Sponsor, etc.

Sponsor, etc.	Last Name/Organization	First Name	Mi
Requester	Environmental Quality Council		
Drafter	Heisel	Leanne	
By Request Of	Environmental Quality Council		
Primary Sponsor	Lind	Greg	

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Subjects

Description	Revenue/Approp.	Vote Majority Req.	Subject Code
Fires and Fire Protection		Simple	FIRE
Local Government (see also: City Subjects; County Subjects)		Simple	LG

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Additional Bill Information

Probable Fiscal Note: No

Preintroduction Required: Y

Session Law Ch. Number: 499

DEADLINE

Category: General Bills

Transmittal Date: 02/28/2007

Return (with 2nd house amendments) Date: 04/05/2007

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Section Effective Dates

Section(s)	Effective Date	Date Qualified
All Sections	01-OCT-07	

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SENATE BILL NO. 103

INTRODUCED BY G. LIND

BY REQUEST OF THE ENVIRONMENTAL QUALITY COUNCIL

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LOCAL GOVERNMENT FIRE PROTECTION LAWS; CHANGING THOSE WHO MAY PETITION FOR CREATION, ANNEXATION, DIVISION, AND DISSOLUTION OF RURAL FIRE DISTRICTS FROM FREEHOLDERS TO REGISTERED VOTERS AND CHANGING THE PERCENTAGE OF PETITIONERS REQUIRED; ALLOWING CITIES AND TOWNS TO BE INCLUDED IN A RURAL FIRE DISTRICT; PROHIBITING SIGNATURES FROM BEING WITHDRAWN FROM A PETITION AFTER A CERTAIN TIME PERIOD; REVISING THE POWERS AND DUTIES OF RURAL FIRE DISTRICT TRUSTEES; REMOVING LIMITATIONS ON TRUSTEES' ABILITY TO ENTER INTO CONTRACTS FOR FIRE PROTECTION SERVICES; PROVIDING THAT TWO OR MORE RURAL FIRE DISTRICTS THAT CONSOLIDATE RESULT IN A NEW RURAL FIRE DISTRICT FOR MILL LEVY PURPOSES; REVISING HOW A RURAL FIRE DISTRICT MAY BE DIVIDED AND THE REQUIREMENTS FOR DIVISION; ALLOWING TERRITORY WITHIN A CITY OR TOWN TO BE ANNEXED INTO A RURAL FIRE DISTRICT; REQUIRING A COUNTY GOVERNING BODY TO EITHER PROVIDE DIRECT FIRE PROTECTION TO COUNTY LAND OR TO ENTER INTO AN AGREEMENT FOR THAT PROTECTION; REMOVING THE PROHIBITION ON MORE THAN ONE FIRE COMPANY FOR CERTAIN LOCATIONS; REMOVING THE PROVISION THAT RURAL FIRE DISTRICT CHIEFS SERVE WITHOUT COMPENSATION; REMOVING THE PROVISION ALLOWING VOLUNTARY URBAN FIRE CREWS FOR USE IN RURAL AREAS; AMENDING SECTIONS 7-33-2101, 7-33-2102, 7-33-2103, 7-33-2104, 7-33-2105, 7-33-2106, 7-33-2107, 7-33-2109, 7-33-2120, 7-33-2121, 7-33-2123, 7-33-2124, 7-33-2125, 7-33-2126, 7-33-2127, 7-33-2128, 7-33-2202, 7-33-2205, 7-33-2206, 7-33-2210, 7-33-2311, 7-33-2313, AND 7-33-2401, MCA; AND REPEALING SECTIONS 7-33-2122, 7-33-2204, AND 7-33-2207, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 7-33-2101, MCA, is amended to read:

"7-33-2101. Rural fire districts authorized -- petition. (1) The board of county commissioners is authorized to establish fire districts in any unincorporated territory or, subject to subsection (2), incorporated city or town upon presentation of a petition

in writing signed by ~~the owners of 50%~~ 40% or more of the ~~area of the privately owned lands included within the proposed district who constitute a majority of the taxpayers who are freeholders of such area and whose names appear upon the last completed assessment roll~~ registered voters residing in the proposed district.

(2) Cities and towns may be included in the district upon approval by the city or town governing body."

Section 2. Section 7-33-2102, MCA, is amended to read:

"7-33-2102. Notice of hearing. The board shall, within 10 days after the receipt of the petition, give notice of the hearing at least 10 days prior to the hearing:

(1) by mailing a copy of the notice as provided in 7-1-2122 or as provided in 7-1-4129 if the proposed district or a portion of the proposed district is in an incorporated city or town to each ~~freeholder~~ registered voter residing in the proposed district at the address shown in the assessment roll; and

(2) by publishing the notice as provided in 7-1-2121 or as provided in 7-1-4127 if the proposed district or portion of the proposed district is in an incorporated city or town."

Section 3. Section 7-33-2103, MCA, is amended to read:

"7-33-2103. Hearing on petition -- decision. (1) (a) The board shall ~~proceed to hear the petition at the time set or at any time within 5 days thereafter to which the same is postponed or continued with due notice and may grant the same unless it is established thereat~~ of the time set if reasonable notice of the postponement is given. The board may establish the district unless it determines that the petition bears insufficient signatures as above required or, if originally sufficient, that by reason of written withdrawals thereof of signatures it has become insufficient.

(b) Signatures may not be withdrawn fewer than 20 days before the date set for adoption of the petition.

(2) The board may adjust the boundaries of the proposed district to reflect ~~any freeholder's~~ the written request of any registered voter who resides in the proposed district and who owns parcels of land in the proposed district for subtraction or

annexation of parcels of the ~~freeholder's~~ voter's land adjacent to the boundary line of the proposed district. ~~Such~~ The written request must be submitted to the board prior to or on the date set for hearing on the petition.

(3) The board shall render its decision within 30 days after the hearing."

Section 4. Section 7-33-2104, MCA, is amended to read:

"7-33-2104. Operation of fire districts. ~~Whenever the~~ When a board of county commissioners ~~shall have established~~ establishes a fire district in any unincorporated territory, or incorporated city or town, or village, ~~said the~~ commissioners:

(1) may contract with a city, town, ~~or~~ private fire company, or other public entity to furnish all fire protection services for property within ~~said the~~ the district; or

(2) shall appoint five qualified trustees to govern and manage the ~~affairs of~~ the fire district."

Section 5. Section 7-33-2105, MCA, is amended to read:

"7-33-2105. Powers and duties of trustees. (1) The trustees:

(a) shall prepare and adopt suitable bylaws; ~~;~~

~~—(2)(b)~~ The trustees have the authority to provide adequate and standard firefighting and emergency response apparatus, equipment, personnel, housing, and facilities, including real property and emergency medical services and equipment, for the protection of the district; ~~They shall~~

(c) may appoint and form fire companies that have the same duties, exemptions, and privileges as other fire companies for retirement purposes only; ~~;~~

~~—(3) The trustees~~ (d) shall prepare annual budgets and request special levies for the budgets. The budget laws relating to county budgets must, as far as applicable, apply to fire districts.

(e) may enter into contracts as provided in 7-33-2107; and

(f) may pledge income to secure financing of the district as provided in 7-33-2109.

(2) All money received by the trustees must be deposited in the county

treasurer's office and credited to the fire district."

Section 6. Section 7-33-2106, MCA, is amended to read:

"7-33-2106. Details relating to board of trustees of fire district. (1) (a) The five trustees initially appointed by the county commissioners hold staggered terms of office until their successors are elected or appointed and qualified as provided in this section.

(b) The initial trustees' terms of office must be drawn by lot and include:

(i) 3 years for one trustee;

(ii) 2 years for two trustees; and

(iii) 1 year for two trustees.

(c) Upon expiration of the terms provided in subsection (1)(b), each trustee shall serve a 3-year term of office.

(2) Trustees must be elected as provided in 13-1-104(3), 13-1-401, and subsection (3) of this section or appointed as provided in subsection (4) of this section. The term of office is 3 years beginning at the first district meeting following their election or appointment and continuing until their successors are elected or appointed and qualified. Appointments to fill vacancies occurring during the term of office of a trustee must be made by the county governing body and appointees shall hold office until the next regular election. An elector, as defined in Title 13, who resides in the district or any holder of title to lands within the district who presents a proof of payment of taxes on the lands at the polling place is eligible to vote in the election.

(3) Candidates for the office of trustee of the fire district to be filled by election may be nominated by petition filed with the election administrator or deputy election administrator at least 75 days before the election day and signed by at least five electors of the district.

(4) If the number of candidates is equal to or less than the number of positions to be elected, the election administrator may cancel the election in accordance with 13-1-304. If an election is not held, the county governing body shall declare elected by acclamation each candidate who filed a nominating petition for a position. If a

nomination is not made for one or more trustee offices, the county governing body shall appoint one or more trustees as necessary to fill those offices. A trustee taking office pursuant to this subsection serves the trustee term of office as if that trustee had been elected.

(5) The trustees shall organize by choosing ~~a presiding officer~~ officers and appointing one member to act as secretary."

Section 7. Section 7-33-2107, MCA, is amended to read:

"7-33-2107. Contracts for fire protection services. (1) The trustees of ~~such~~ a fire district, ~~provided that the owners of 10% of the taxable value of the property in any such fire district may elect to make such a contract:~~

~~----- (a) may contract with the council of any city or town or with the trustees of any other fire district established in any unincorporated territory, town, or village which has any boundary line lying within 5 straight-line miles of any boundary line of such district, whether the city or town or other fire district shall lie within the same county or another county, for the extension of fire protection service by the city or town or by such other fire district to property included within such district, and~~

~~----- (b) may agree to pay a reasonable consideration therefor.~~

~~----- (2) Likewise, the trustees may contract to permit such fire district's equipment and facilities to be used by the cities, towns, or other fire districts which have any boundary lines lying within 5 straight-line miles of any boundary line of such district.~~

~~----- (3) Likewise, the trustees may enter into contracts with public or private parties under which such district fire company may extend fire protection to public or private property lying outside of such district or any other district or city limits but within 5 straight-line miles of any boundary line of such district, whether such public or private property shall lie within the same county or another county. Such district fire company may use such fire district's equipment and facilities outside of such district in the performance of such contracts~~ may enter into contracts for fire protection services.

~~-----~~(4)(2) All money received from ~~such~~ contracts ~~shall~~ must be deposited in the county treasurer's office and credited to the fire district fund holding ~~such~~ the contracts.

~~-----~~(5)(3) The relationship between the fire district and the ~~city, town, or private fire service~~ shall be entity with which the district has contracted is that of an independent contractor."

Section 8. Section 7-33-2109, MCA, is amended to read:

"7-33-2109. Tax levy, debt incurrence, and bonds authorized. (1) At the time of the annual levy of taxes, the board of county commissioners may, subject to 15-10-420, levy a special tax upon all property within a rural fire district for the purpose of buying or maintaining fire protection facilities, including real property, and apparatus, including emergency response apparatus, for the district or for the purpose of paying to a city, town, or private fire service the consideration provided for in any contract with the council of the city, town, or private fire service for the purpose of furnishing fire protection service to property within the district. The tax must be collected as are other taxes.

(2) The board of county commissioners or the trustees, if the district is governed by trustees, may pledge the income of the district, subject to the requirements and limitations of 7-33-2105~~(3)~~(1)(d), to secure financing necessary to procure equipment and buildings, including real property, to house the equipment.

(3) In addition to the levy authorized in subsection (1), a district may borrow money by the issuance of bonds to provide funds for the payment of all or part of the cost of buying or maintaining fire protection facilities, including real property, and apparatus, including emergency response apparatus, for the district.

(4) The amount of debt incurred pursuant to subsection (2) and the amount of bonds issued pursuant to subsection (3) and outstanding at any time may not exceed 1.1% of the total assessed value of taxable property, determined as provided in 15-8-111, within the district, as ascertained by the most recent assessment for state and county taxes prior to the incurrence of debt or the issuance of the bonds.

(5) The bonds must be authorized, sold, and issued and provisions must be made

for their payment in the manner and subject to the conditions and limitations prescribed for the issuance of bonds by counties under Title 7, chapter 7, part 22."

Section 9. Section 7-33-2120, MCA, is amended to read:

"7-33-2120. Consolidation of fire districts -- mill levy limitations. (1) Two or more rural fire districts may consolidate to form a single rural fire district upon an affirmative vote of each rural fire district's board of trustees. At the time they vote to consolidate, the boards of trustees ~~must~~ shall also adopt a consolidation plan. The plan must contain:

(a) a timetable for consolidation, including the effective date of consolidation, which must be after the time allowed for protests to the creation of the consolidated rural fire district under subsection (3);

(b) the name of the new rural fire district;

(c) a boundary map of the new rural fire district; and

(d) the estimated financial impact of consolidation on the average taxpayer within the proposed district.

(2) Within 14 days of the date that the trustees vote to consolidate, notice of the consolidation must be published as provided in 7-1-2121 or as provided in 7-1-4127 if the district or part of the district is in an incorporated city or town in each county in which any part of the consolidated fire district will be located. A public hearing on the consolidation must be held within 14 days of the first publication of notice. The hearing must be held before the joint boards of trustees at a time and place set forth in the publication of notice.

(3) ~~Property owners of~~ Registered voters residing in each affected rural fire district may submit written protests opposing consolidation to the trustees of their district. If within 21 days of the first publication of notice ~~more than 50%~~ 40% or more of the ~~property owners~~ registered voters in an existing district protest the consolidation, it is void.

(4) After consolidation, the former rural fire districts constitute a single rural fire district governed under the provisions of 7-33-2104 through 7-33-2106.

(5) The consolidation of two or more rural fire districts pursuant to this

section results in the creation of a new rural fire district for the purposes of determining mill levy limitations."

Section 10. Section 7-33-2121, MCA, is amended to read:

"7-33-2121. Division of fire district authorized. Fire districts may be divided as provided in ~~7-33-2122 through~~ 7-33-2123, 7-33-2124, and [section 11]."

NEW SECTION. **Section 11. Division of district -- petition -- plan for division.**

(1) (a) A fire district's board of trustees may vote to divide the district upon an affirmative vote of the board and upon receipt of a petition signed by 40% or more of the registered voters of an area proposed to be detracted from the original district.

(b) The petition must describe the boundaries of the proposed detracted area and the boundaries of the remaining area.

(2) At the time it votes to divide, the board shall adopt a division plan that contains:

(a) a timetable for division, including the effective date, that must be after the time allowed for protests to the division;

(b) the names of the new rural fire districts;

(c) the boundary maps of the new districts;

(d) the estimated financial impact of the division on an owner of a home valued at \$100,000; and

(e) a method for the fair and equitable division of the assets and liabilities of the original district among the new districts.

(3) The board of trustees shall forward the plan to the board of county commissioners in the county where the districts are located.

(4) Within 21 days of receipt of the plan, the board of county commissioners shall set a date for a public hearing on the division and shall give notice of the hearing as provided in 7-1-2121 or as provided in 7-1-4127 if any part of the proposed detracted area is within the limits of an incorporated city or town.

Section 12. Section 7-33-2123, MCA, is amended to read:

"7-33-2123. Decision on petition for division -- protest. The petition ~~shall~~ must be granted and the original districts ~~shall thereupon~~ must be divided into separate districts unless at the time of the hearing on ~~such~~ the petition protests ~~shall be~~ are presented by ~~the owners of 50%~~ 40% or more of the ~~area of the privately owned lands included within the entire original district who constitute a majority of the taxpayers who are freeholders of~~ registered voters residing in the entire original district and whose names appear upon the last completed assessment roll. If ~~such~~ the required ~~amount~~ number of protests are presented, the petition for division ~~shall be disallowed~~ may not be approved."

Section 13. Section 7-33-2124, MCA, is amended to read:

"7-33-2124. Distribution of assets and liabilities following division. (1) Upon the division of districts, ~~money on hand shall be apportioned between the divided areas according to their respective taxable valuations. All other assets of the original district shall become the property of the remaining area, but a reasonable value shall be placed upon such other assets, and the remaining area shall become indebted to the detracted area for its proportionate share thereof, based upon taxable valuations~~ the assets and liabilities of the original rural fire district must be distributed in accordance with the division plan as provided in [section 11].

(2) Any detracted area ~~shall remain~~ is liable for any existing warrant and bonded indebtedness of the original district."

Section 14. Section 7-33-2125, MCA, is amended to read:

"7-33-2125. Annexation of adjacent territory not contained in a fire district. (1) Adjacent territory within or outside of the limits of an incorporated city or town that is not already a part of a fire district may be annexed in the following manner:

(a) A petition in writing by ~~the owners of 50%~~ 40% or more of the ~~area of privately owned lands of the adjacent area proposed to be annexed who constitute a majority of the taxpaying freeholders~~ registered voters who reside within the proposed area to be annexed and whose names appear upon the last completed assessment roll must be presented to the board of trustees of the district for approval. If the proposed

annexation is approved by the board of trustees, the petition must be presented to the board of county commissioners.

(b) At the first regular meeting of the board of county commissioners after the presentation of the petition, the commissioners shall set a date to hold a hearing on the petition. The date of the hearing may not be less than 4 weeks after the date of the presentation of the petition to the board of county commissioners. The board of county commissioners shall publish notice of the hearing as provided in 7-1-2121 or as provided in 7-1-4127 if any part of the area proposed to be annexed is within an incorporated city or town.

(2) On the date set for the hearing, the board of county commissioners shall consider the petition and any objections to the annexation. The board shall approve the annexation unless a protest petition signed by ~~a majority of the landowners of~~ at least 40% of the registered voters residing in the area proposed for annexation is presented at the hearing, in which case the annexation must be disapproved.

(3) The annexed territory is liable for any outstanding warrant and bonded indebtedness of the original district.

(4) Territory that is within the limits of an incorporated city or town may only be annexed upon the approval of the city or town governing body."

Section 15. Section 7-33-2126, MCA, is amended to read:

"7-33-2126. Annexation of adjacent territory contained in a fire district. (1) Adjacent territory that is already a part of a fire district may withdraw from ~~such~~ the fire district and become annexed to another fire district in the following manner:

(a) A petition in writing by ~~the owners of 50%~~ 40% or more of the ~~privately owned lands of an area which is part of any organized fire district who constitute a majority of the taxpaying freeholders~~ registered voters residing within such the area according to the last completed assessment roll shall ~~proposed to be transferred~~ must be presented to the county commissioners, asking that ~~such~~ the area be transferred to and included in any other organized fire district to which ~~said~~ the area is adjacent. The petition must ~~set forth~~ describe the change of boundaries to be affected by ~~such~~ the proposed transfer of area.

(b) The commissioners shall hold a hearing on the petition in accordance with the procedure outlined in ~~7-33-2122~~ [section 11]. The ~~withdrawal and annexation shall transfer must~~ be allowed unless protests are presented at the hearing by ~~the owners of 50% 40%~~ 40% or more of the ~~area of the privately owned lands included within either district affected who constitute a majority of the taxpaying freeholders of registered voters residing in either district according to the last completed assessment roll.~~

(2) The ~~withdrawals and annexation shall~~ transfer may be allowed only upon a showing of more advantageous proximity and communications with the firefighting facilities of the other district."

Section 16. Section 7-33-2127, MCA, is amended to read:

"7-33-2127. Withdrawal by owner of individual tract adjacent to municipality. In lieu of the detracton procedure ~~set forth~~ provided in ~~7-33-2122 and 7-33-2123 and~~ [section 11], whenever a person owns land adjacent to a city or town and wishes to have only that land annexed to the city or town, the land may be detracted as follows:

(1) The owner shall mail notice to the chairman of the trustees of the fire district or, if none, to the board of county commissioners of ~~his~~ the owner's intention to request annexation.

(2) The owner shall attach a copy of this notice of intention to ~~his~~ the petition to the municipal governing body requesting annexation.

(3) Following adoption of the annexation order under 7-2-4714, the land is detracted from the fire district."

Section 17. Section 7-33-2128, MCA, is amended to read:

"7-33-2128. Dissolution of fire district. Any (1) Subject to subsection (2), a fire district organized under this part may be dissolved by the board of county commissioners upon presentation of a petition ~~therefor~~ for dissolution signed by ~~the owners of 50% 40%~~ 40% or more of the ~~area of the privately owned lands included within such fire district who constitute a majority of the taxpayers who are freeholders of such registered voters residing in the area and whose names appear upon the last completed assessment roll.~~ The procedure and requirements ~~outlined~~ provided in

7-33-2101 through 7-33-2103 ~~shall~~ apply to ~~such~~ requests for dissolution of fire districts.

(2) A board of county commissioners may not dissolve a fire district that includes territory within the limits of an incorporated city or town unless the dissolution is approved by the governing body of the city or town."

Section 18. Section 7-33-2202, MCA, is amended to read:

"7-33-2202. Functions of county governing body. (1) The county governing body, with respect to rural fire control, shall carry out the specific authorities and duties imposed in this section+.

~~-----~~ ~~(1)~~ (2) The governing body shall:

- (a) provide for the organization of volunteer rural fire control crews; and
- (b) provide for the formation of county volunteer fire companies.

~~-----~~ ~~(2)~~ (3) The governing body shall appoint a county rural fire chief and ~~such~~ as many district rural fire chiefs, subject to the direction and supervision of the county rural fire chief, as it considers necessary.

~~-----~~ ~~(3)~~ (4) The county governing body shall, within the limitations of 7-33-2205, ~~through 7-33-2209~~ 7-33-2206, 7-33-2208, and 7-33-2209, either:

(a) directly protect the range, farm, and forest lands within the county from fire land in the county that is not in a forest fire protection district, as provided in 76-13-204, or under the protection of a municipality, state agency, or federal agency;
or

(b) enter into an agreement for forest fire protection with a recognized agency, as that term is defined in 76-13-102.

~~-----~~ ~~(4)~~ (5) The county governing body may enter into mutual aid agreements for itself and for county volunteer fire companies with:

- (a) other fire districts;
- (b) unincorporated municipalities;
- (c) incorporated municipalities;
- (d) state agencies;
- (e) private fire prevention agencies;

- (f) federal agencies;
- (g) fire service areas; or
- (h) governing bodies of other political subdivisions.

———(5)(6) If the county governing body has not concluded a mutual aid agreement, the county governing body, a representative of the county governing body, or an incident commander may request assistance pursuant to 10-3-209."

Section 19. Section 7-33-2205, MCA, is amended to read:

"7-33-2205. Establishment of fire season -- permit requirements -- reimbursement of costs. (1) The county governing body may in its discretion establish fire seasons annually, during which a person may not ignite or set a ~~forest~~ fire, including a slash-burning fire, land-clearing fire, debris-burning fire, or open fire within the county protection area on any residential or commercial property, forest, range, or croplands subject to the provisions of this part without having obtained an official written permit or permission to ignite or set a fire from the recognized protection agency for that protection area.

(2) A permit or permission is not needed for recreational fires measuring less than 48 inches in diameter that are surrounded by a nonflammable structure and for which a suitable source of extinguishing the fire is available.

(3) A person who purposely ignites a fire in violation of this section shall reimburse the county governing body or recognized protection agency for costs incurred for any fire suppression activities resulting from the illegal fire, as provided in 50-63-103."

Section 20. Section 7-33-2206, MCA, is amended to read:

"7-33-2206. Violations. A person who ignites or sets a ~~forest~~ fire, including a slash-burning fire, land-clearing fire, debris-burning fire, or open fire on any residential or commercial property, forest, range, or cropland subject to the provisions of this part without first having obtained a written permit or permission from the recognized protection agency for that protection area to ignite or set the fire is guilty of a misdemeanor."

Section 21. Section 7-33-2210, MCA, is amended to read:

"7-33-2210. State to be reimbursed for forest fire suppression activities in noncooperating counties. A county that has not entered into a cooperative or other written agreement with the state for forest protection shall reimburse the state for costs incurred by the state in connection with state fire suppression activities resulting from a forest fire emergency on land in that county that is not in a forest fire protection district, as provided in 76-13-204, or protected through an agreement with a recognized agency, as provided in 7-33-2202(4)(b)."

Section 22. Section 7-33-2311, MCA, is amended to read:

"7-33-2311. Fire companies authorized. (1) Fire companies in unincorporated towns and villages are organized by filing with the county clerk of the county in which they are located a certificate in writing, signed by the presiding officer and secretary, ~~setting forth~~ providing the date of organization, name, officers, and roll of active and honorary members or a copy of the certificate provided for in 19-17-402. The certificate and filing must be renewed annually on or before September 1.

~~—— (2) A town or village is not allowed more than one company for each 1,000 inhabitants, but one company must be allowed in a city, town, or village in which the population is less than 1,000.~~

~~—— (3)(2)~~ A fire company is not allowed more than 28 certificate members."

Section 23. Section 7-33-2313, MCA, is amended to read:

"7-33-2313. Powers and duties of chief -- request for assistance -- definitions.

(1) The chief of every fire ~~department~~ company shall inquire into the cause of every fire occurring in the town in which the chief serves as the chief and shall keep a record of every fire. The chief shall aid in the enforcement of all fire ordinances, examine buildings in the process of erection, report violations of ordinances relating to prevention or extinguishment of fires and, when directed by the proper authorities, institute prosecutions for the violation of those ordinances, and perform other duties as may be imposed upon the chief by proper authority. The chief's compensation, if

any, must be fixed and paid by the city or town authorities. The chief shall attend all fires, with the chief's badge of office conspicuously displayed. The chief shall prevent injury to, take charge of, and preserve all property rescued from fires and return it to the owner on the payment of the expenses incurred in saving and keeping it. The amount of the expenses, when not agreed to, must be fixed by a justice of the peace.

(2) The chief shall devise and formulate or cause to be devised and formulated a course or plan of instruction or training program making available to each regular member of the chief's ~~department~~ company not less than 30 hours of instruction each year in matters pertaining to firefighting. The chief shall supervise the operation of the training plan or program and maintain training records for each current and former firefighter for the purposes of the public employees' retirement board provided for in 2-15-1009.

(3) If the county commissioners, trustees of a fire district, or governing body of a fire service area have not concluded a mutual aid agreement to protect an unincorporated town or village against natural incidents, emergencies, or disasters or incidents, emergencies, or disasters caused by persons, the chief may request assistance pursuant to 10-3-209.

(4) As used in this section, "incidents", "disasters", or "emergencies", and "incidents" have ~~has~~ the meaning provided in 10-3-103."

Section 24. Section 7-33-2401, MCA, is amended to read:

"7-33-2401. Fire service area -- establishment -- alteration -- dissolution.

(1) Upon receipt of a petition signed by at least 30 owners of real property in the proposed service area, or by a majority of the owners of real property if there are no more than 30 owners of real property in the proposed service area, the board of county commissioners may establish a fire service area within an unincorporated area not part of a rural fire district in the county to provide the services and equipment set forth in 7-33-2402.

(2) To establish a fire service area, the board shall:

(a) pass a resolution of intent to form the area, with public notice as provided

in 7-1-2121 ~~and written notice as provided in 7-1-2122;~~

(b) hold a public hearing no earlier than 30 or later than 90 days after passage of the resolution of intent;

(c) at the public hearing:

(i) accept written protests from property owners of the area of the proposed area; and

(ii) receive general protests and comments relating to the establishment of the fire service area and its boundaries, rates, kinds, types, or levels of service, or any other matter relating to the proposed fire service area; and

(d) pass a resolution creating the fire service area. The area is created effective 60 days after passage of the resolution unless by that date more than 50% of the property owners of the proposed fire service area protest its creation.

(3) Based on testimony received in the public hearing, the board in the resolution creating the fire service area may establish different boundaries, establish a different fee schedule than proposed, change the kinds, types, or levels of service, or change the manner in which the area will provide services to its residents.

(4) The board of county commissioners may alter the boundaries or the kinds, types, or levels of service or dissolve a fire service area, using the procedures provided in subsection (2). The board of county commissioners shall alter the boundaries of a fire service area to exclude any area that is annexed by a city or town, using the procedures provided in subsection (2). Any existing indebtedness of a fire service area that is dissolved remains the responsibility of the owners of property within the area, and any assets remaining after all indebtedness has been satisfied must be returned to the owners of property within the area."

NEW SECTION. **Section 25. Repealer.** Sections 7-33-2122, 7-33-2204, and 7-33-2207, MCA, are repealed.

COORDINATION SECTION. **Section 26. Coordination instruction.** If [LC 422] and [this act] are both passed and approved, then 7-33-2202 must read as follows:

"7-33-2202. **Functions of county governing body.** (1) The county governing body,

with respect to rural fire control, shall carry out the specific authorities and duties imposed in this section+.

~~——(1)~~ (2) The governing body shall:

- (a) provide for the organization of volunteer rural fire control crews; and
- (b) provide for the formation of county volunteer fire companies.

~~——(2)~~ (3) The governing body shall appoint a county rural fire chief and ~~such~~ as many district rural fire chiefs, subject to the direction and supervision of the county rural fire chief, as it considers necessary.

~~——(3)~~ (4) ~~The Pursuant to 76-13-105(3), the county governing body shall, within the limitations of 7-33-2205, through 7-33-2209~~ 7-33-2206, 7-33-2208, and 7-33-2209, either:

(a) directly protect the range, farm, and forest lands within the county from fire land in the county that is not in a forest fire protection district, as provided in 76-13-204, or under the protection of a municipality, state agency, or federal agency;
or

(b) enter into an agreement for forest fire protection with a recognized agency, as that term is defined in 76-13-102.

~~——(4)~~ (5) The county governing body may enter into mutual aid agreements for itself and for county volunteer fire companies with:

- (a) other fire districts;
- (b) unincorporated municipalities;
- (c) incorporated municipalities;
- (d) state agencies;
- (e) private fire prevention agencies;
- (f) federal agencies;
- (g) fire service areas; or
- (h) governing bodies of other political subdivisions.

~~——(5)~~ (6) If the county governing body has not concluded a mutual aid agreement, the county governing body, a representative of the county governing body, or an incident commander may request assistance pursuant to 10-3-209."

NEW SECTION. **Section 27. Codification instruction.** [Section 11] is intended to be codified as an integral part of Title 7, chapter 33, part 21, and the provisions of Title 7, chapter 33, part 21, apply to [section 11].

- END -

MINUTES

MONTANA SENATE 60th LEGISLATURE - REGULAR SESSION

COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By **CHAIRMAN KIM GILLAN**, on January 16, 2007 at 3:00 P.M., in Room 335 Capitol.

ROLL CALL

Members Present:

Sen. Kim Gillan, Chairman (D)
Sen. John Esp (R)
Sen. Kelly Gebhardt (R)
Sen. Bob Hawks (D)
Sen. Lynda Moss (D)
Sen. Terry Murphy (R)
Sen. Jerry O'Neil (R)
Sen. Mitch Tropila (D)

Members Excused:

Sen. Carol C. Juneau (D)
Sen. Rick Laible (R)
Sen. Carol Williams (D)

Members Absent: None.

Staff Present: Leanne Heisel, Legislative Branch
Marigail Schreiner, Committee Secretary

Audio Committees: These minutes are in outline form only.

They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted: SB 35, SB 102, SB 103, 1/11/2007
Executive Action: SB 35

00:00:01 Opening comments by Chairman Gillan.

00:00:38 Leanne Heisel presented background on SB 102 and 103.

HEARING ON SB 103

Opening Statement by Sponsor:

00:02:58 **SEN. GREG LIND (D)**, SD 50, opened the hearing on **SB 103**, Revise local government fire protection laws.

Proponents' Testimony:

00:04:56 Scott Waldron, Fire Chief, Frenchtown Rural Fire District

00:08:03 Brett Waters, Montana County Fire Association, Central Valley Rural Fire District, Belgrade

00:10:16 Ed Tinsley, County Commissioner, Lewis and Clark County

00:11:19 Ted Mead, Chief of Fire Aviation

00:11:53 Sheryl Wood, Associate Director, Montana Association of Counties

00:13:05 Steve Erb, Private Citizen

Opponents' Testimony:

00:14:03 John Youngberg, Montana Association of Farmers

00:17:13 Alec Hansen, League of Cities and Towns

00:19:16 Jay Baunn, Montana Stockgrower's Association

Informational Testimony:

00:20:25 None

Questions from Committee Members and Responses:

00:20:38 Sen. O'Neil to Sen. Lind

00:21:38 Sen. Lind referred Sen. O'Neil's question to Scott Waldron.

00:23:51 Sen. Moss to Sen. Lind

00:25:30 Sen. Esp to Sen. Lind
00:26:00 Sen. Lind referred Sen. Esp's question to Scott Waldron.
00:26:43 Sen. Esp to Sen. Lind
00:28:17 Sen. Gebhardt to Brett Waters
00:31:43 Sen. Tropila to Sen. Lind
00:33:38 Scott Waldron responded further to Sen. Tropila's question to Sen. Lind
00:34:11 Comment by Chairman Gillan
00:34:19 Sen. Gebhardt questioned the working groups response regarding proposed amendments. Brett Waters responded to the question.
00:36:04 Sen. Murphy to Leanne Heisel, Legislative Services Division

Closing by Sponsor:

00:37:53 Sen. Lind

HEARING ON SB 102

Opening Statement by Sponsor:

00:39:15 **SEN. GREG LIND (D), SD 50**, opened the hearing on **SB 102**, Revise disaster mutual aid agreement law.

Proponents' Testimony:

00:40:50 Brett Waters, House Joint Resolution 10 Committee, Fire Chief, Central Valley Fire District, Belgrade
00:42:41 Scott Waldron, House Joint Resolution 10 Committee

Opponents' Testimony:

00:43:24 None

Informational Testimony:

MONTANA SENATE
2007 LEGISLATURE

LOCAL GOVERNMENT

ROLL CALL

DATE 1-16-07

NAMES	PRESENT	ABSENT	EXCUSED
SEN. JOHN ESP (R)	✓		
SEN. KELLY GEBHARDT (R)	✓		
SEN. BOB HAWKS (D)	✓		
SEN. CAROL JUNEAU (D)			✓
SEN. RICK LAIBLE (R)			✓
SEN. LYNDA MOSS (D)	✓		
SEN. TERRY MURPHY (R)	✓		
SEN. JERRY O'NEIL (R)	✓		
SEN. MITCH TROPILA (D)	✓		
SEN. CAROL WILLIAMS (D)			✓
SEN. KIM GILLAN (D) - CHR	✓		
LEANNE HEISEL - LSD	✓		
MARI SCHREINER - SECRETARY	✓		

LOCAL GOVERNMENT

BILLS BEING HEARD TODAY 102, 103

[illegible]

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

MINUTES

**MONTANA SENATE
60th LEGISLATURE - REGULAR SESSION
COMMITTEE ON LOCAL GOVERNMENT**

Call to Order: By **CHAIRMAN KIM GILLAN**, on February 13, 2007 at 3:36 P.M., in Room 335 Capitol.

ROLL CALL

Members Present:

Sen. Kim Gillan, Chairman (D)
Sen. John Esp (R)
Sen. Bob Hawks (D)
Sen. Carol C. Juneau (D)
Sen. Rick Laible (R)
Sen. Lynda Moss (D)
Sen. Terry Murphy (R)
Sen. Jerry O'Neil (R)

Members Excused: None.

Members Absent:

Sen. Kelly Gebhardt (R)
Sen. Mitch Tropila (D)
Sen. Carol Williams (D)

Staff Present: Leanne Heisel, Legislative Branch
Marigail Schreiner, Committee Secretary

Audio Committees: These minutes are in outline form only.

They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted: SB 299, SB 301, 1/26/2007
Executive Action: SB 167, SB 299, SB 301, SB 102,
SB 103, SB 130

01:08:15 Sen. Gebhardt

01:09:39 Leanne Heisel

01:10:15 Vote: Motion carried unanimously by voice vote.

01:10:59 Motion/Vote: SEN. GEBHARDT moved that SB 102 DO PASS
AS AMENDED. Motion carried unanimously by voice vote.

EXECUTIVE ACTION ON SB 103

01:11:44 Motion: SEN. GEBHARDT moved that SB 103 DO PASS.

EXHIBIT(los32a06)

01:11:52 Motion: SEN. GEBHARDT moved that SB 103 BE AMENDED.

Discussion:

01:12:04 Leanne Heisel

01:12:25 Sen. Gebhardt

01:14:44 Sen. Hawks to Sen. Gebhardt

01:15:33 Leanne Heisel

01:16:06 Chairman Gillan

01:16:37 Leanne Heisel

01:16:52 Sen. Gebhardt

01:18:05 Sen. Hawks to Sen. Gebhardt

01:18:55 Leanne Heisel

01:19:17 Vote: Motion carried unanimously by voice vote.

01:19:30 Motion: SEN. GEBHARDT moved that SB 103 DO PASS AS
AMENDED.

01:19:51 Sen. Esp

EXHIBIT(los32a07)

01:20:36 Sen. Hawks

01:20:43 Sen. Gebhardt

01:20:51 Sen. O'Neil left

01:21:44 **Motion:** SEN. MURPHY moved that SB 103 BE AMENDED.

Discussion:

01:22:04 Sen. Murphy

01:23:29 Leanne Heisel

01:24:41 Sen. Hawks

01:25:54 Sen. Williams

01:26:47 Sen. Gebhardt

01:28:29 Sen. Murphy

01:30:53 Sen. Hawks

01:31:20 Sen. Murphy

01:31:52 **Vote:** Motion carried 7-4 by roll call vote with SEN. GILLAN, SEN. JUNEAU, SEN. MOSS, and SEN. WILLIAMS voting no. SEN. O'NEIL voted aye by proxy.

01:32:48 **Motion:** SEN. GEBHARDT moved that SB 103 DO PASS AS AMENDED.

Discussion:

01:32:58 Chairman Gillan to Alec Hansen

01:34:36 Sen. Gebhardt to Alec Hansen

01:36:00 Sen. Juneau

01:36:17 Sen. Tropila to Sen. Esp

01:37:10 Alec Hansen, League of Cities and Towns

01:37:26 Sen. Tropila to Alec Hansen

01:37:47 Leanne Heisel

01:39:03 Sen. Gebhardt

01:40:14 Sen. Hawks to Leanne Heisel
01:41:21 Harold Blattie,
01:42:16 **Vote:** Motion carried 6-5 by voice vote with SEN. ESP,
SEN. JUNEAU, SEN. MOSS, SEN. O'NEIL and SEN. WILLIAMS
voting no.
01:43:05 Chairman Gillan

EXECUTIVE ACTION ON SB 130

01:44:37 **Motion:** SEN. ESP moved that SB 130 DO PASS.

Discussion:

01:45:18 Leanne Heisel

EXHIBIT(los32a08)

01:46:15 **Motion:** SEN. GEBHARDT moved that SB 130 BE AMENDED.

Discussion:

01:46:32 Sen. Gebhardt
01:47:53 Sen. Hawks
01:49:15 Sen. Laible
01:49:41 Sen. Tropila
01:51:17 Sen. Laible to Leanne Heisel
01:52:07 Sen. Gebhardt
01:53:15 Sen. Laible
01:54:18 Sen. Esp
01:54:30 Sen. Hawks to Alec Hansen
01:56:53 Sen. Gebhardt
01:57:21 **Vote:** Motion carried unanimously. SEN. O'NEIL voted
aye by proxy.

Amendments to Senate Bill No. 103
1st Reading Copy

Senate Local Govt. Comm.
Exhibit No. 6
Date 2-13-07
Page 28103

Requested by Senator Kelly Gebhardt

For the Senate Local Government Committee

Prepared by Leanne Heisel
January 18, 2007 (10:51am)

1. Page 2, line 5.

Following: "(2)"

Insert: "(a) "

2. Page 2.

Following: line 5

Insert: "(b) A city or town may withdraw from a district 2 years
after providing to the board of county commissioners notice
of intent to withdraw."

3. Page 9, line 4.

Following: "(4)"

Insert: "(a) "

4. Page 9.

Following: line 5

Insert: "(b) A city or town may withdraw from the district
territory that has been annexed under this section 2 years
after providing to the board of county commissioners notice
of intent to withdraw."

- END -

Amendments to Senate Bill No. 103
1st Reading Copy

Requested by Senator Terry Murphy

For the Senate Local Government Committee

Prepared by Leanne Heisel
January 26, 2007 (9:48am)

1. Title, line 6 through line 8.

Strike: "CHANGING" on line 6 through "REQUIRED;" on line 8

2. Page 2, line 1.

Strike: "40% or more of the"

3. Page 2, lines 3 and 4.

Strike: "registered" on line 3 through "district" on line 4

Insert: "the owners of more than 50% of the area of the privately owned lands included within the proposed district who constitute a majority of the real property owners of the area"

4. Page 2, lines 11 and 12.

Strike: "registered voter residing"

Insert: "real property owner"

5. Page 2, lines 25 and 26.

Strike: "registered voter who resides" on line 25

Insert: "real property owner"

Strike: "and who" on line 25 through "district" on line 6

Strike: "voter's" on line 26

Insert: "owner's"

6. Page 6, line 23.

Strike: "Registered voters residing in"

Insert: "Real property owners of"

7. Page 6, line 25.

Strike: "40% or more"

Insert: "more than 50%"

Strike: "registered voters"

Insert: "real property owners"

8. Page 7, line 8.

Strike: "40%" through "voters"

Insert: "more than 50% of the real property owners"

9. Page 7, line 28.

Strike: "40% or more of the"

10. Page 7, line 30.

Strike: "registered voters residing in"

Insert: "the owners of more than 50% of the real property of the area of privately owned lands included within the entire original district who constitute a majority of the real property owners in"

11. Page 8, line 18.

Strike: "40% or more of the"

12. Page 8, lines 19 and 20.

Strike: "registered voters who reside"

Insert: "the owners of more than 50% of the area of privately owned lands of the adjacent area proposed to be annexed who constitute a majority of the real property owners"

13. Page 8, line 30.

Strike: "at" through "in"

Insert: "a majority of the real property owners of"

14. Page 9, line 11.

Strike: "40% or more of the"

15. Page 9, lines 12 and 13.

Strike: "registered voters residing"

Insert: "the owners of more than 50% of the privately owned lands of an area that is part of an organized fire district who constitute a majority of real property owners"

16. Page 9, line 19.

Strike: "40% or more of the"

17. Page 9, lines 20 and 21.

Strike: "registered voters residing in"

Insert: "the owners of more than 50% of the area of the privately owned lands included within either district affected who constitute a majority of the real property owners of"

18. Page 10, line 9.

Strike: "40% or more of the"

19. Page 10, lines 10 and 11.

Strike: "registered voters residing in the"

Insert: "the owners of more than 50% of the area of the privately owned lands included within the fire district who constitute a majority of real property owners of the"

- END -

MONTANA SENATE
2007 LEGISLATURE

LOCAL GOVERNMENT

ROLL CALL

DATE 2-13-07

NAMES	PRESENT	ABSENT	EXCUSED
SEN. JOHN ESP (R)	✓		
SEN. KELLY GEBHARDT (R)		✓	
SEN. BOB HAWKS (D)	✓		
SEN. CAROL JUNEAU (D)	✓		
SEN. RICK LAIBLE (R)	✓		
SEN. LYNDA MOSS (D)	✓		
SEN. TERRY MURPHY (R)	✓		
SEN. JERRY O'NEIL (R)	✓		
SEN. MITCH TROPILA (D)		✓	
SEN. CAROL WILLIAMS (D)		✓	
SEN. KIM GILLAN (D) - CHR	✓		
LEANNE HEISEL - LSD	✓		
MARI SCHREINER - SECRETARY	✓		



SENATE STANDING COMMITTEE REPORT

February 14, 2007

Page 1 of 3

Mr. President:

We, your committee on **Local Government** recommend that **Senate Bill 103** (first reading copy -- white) do pass as amended.

Signed: *Kim Gillan*
Senator Kim Gillan, Chair

And, that such amendments read:

1. Title, line 6 through line 8.

Strike: "CHANGING" on line 6 through "REQUIRED;" on line 8

2. Page 2, line 1.

Strike: "40% or more of the"

3. Page 2, lines 3 and 4.

Strike: "registered" on line 3 through "district" on line 4

Insert: "the owners of more than 50% of the area of the privately owned lands included within the proposed district who constitute a majority of the real property owners of the area"

4. Page 2, line 5.

Following: "(2)"

Insert: "(a) "

5. Page 2.

Following: line 5

Insert: "(b) A city or town may withdraw from a district 2 years after providing to the board of county commissioners notice of intent to withdraw."

6. Page 2, lines 11 and 12.

Strike: "registered voter residing"

Insert: "real property owner"

7. Page 2, lines 25 and 26.

Committee Vote:

Yes 6, No 5

Fiscal Note Required *KJ*

331035SC.ssc

Strike: "registered voter who resides" on line 25
Insert: "real property owner"
Strike: "and who" on line 25 through "district" on line 6
Strike: "voter's" on line 26
Insert: "owner's"

8. Page 6, line 23.
Strike: "Registered voters residing in"
Insert: "Real property owners of"

9. Page 6, line 25.
Strike: "40% or more"
Insert: "more than 50%"
Strike: "registered voters"
Insert: "real property owners"

10. Page 7, line 8.
Strike: "40%" through "voters"
Insert: "more than 50% of the real property owners"

11. Page 7, line 28.
Strike: "40% or more of the"

12. Page 7, line 30.
Strike: "registered voters residing in"
Insert: "the owners of more than 50% of the real property of the
area of privately owned lands included within the entire
original district who constitute a majority of the real
property owners in"

13. Page 8, line 18.
Strike: "40% or more of the"

14. Page 8, lines 19 and 20.
Strike: "registered voters who reside"
Insert: "the owners of more than 50% of the area of privately
owned lands of the adjacent area proposed to be annexed who
constitute a majority of the real property owners"

15. Page 8, line 30.
Strike: "at" through "in"
Insert: "a majority of the real property owners of"

16. Page 9, line 4.
Following: "(4)"
Insert: "(a)"

17. Page 9.

Following: line 5

Insert: "(b) A city or town may withdraw from the district territory that has been annexed under this section 2 years after providing to the board of county commissioners notice of intent to withdraw."

18. Page 9, line 11.

Strike: "40% or more of the"

19. Page 9, lines 12 and 13.

Strike: "registered voters residing"

Insert: "the owners of more than 50% of the privately owned lands of an area that is part of an organized fire district who constitute a majority of real property owners"

20. Page 9, line 19.

Strike: "40% or more of the"

21. Page 9, lines 20 and 21.

Strike: "registered voters residing in"

Insert: "the owners of more than 50% of the area of the privately owned lands included within either district affected who constitute a majority of the real property owners of"

22. Page 10, line 9.

Strike: "40% or more of the"

23. Page 10, lines 10 and 11.

Strike: "registered voters residing in the"

Insert: "the owners of more than 50% of the area of the privately owned lands included within the fire district who constitute a majority of real property owners of the"

- END -

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 60th LEGISLATURE - REGULAR SESSION

COMMITTEE ON NATURAL RESOURCES

Call to Order: By Chairman Walter McNutt, on March 16, 2007 at 3:00 P.M., in Room 472 Capitol.

ROLL CALL

Members Present:

Rep. Walter McNutt, Chairman (R)
Rep. Ron Erickson, Vice Chairman (D)
Rep. Ralph Heinert, Vice Chairman (R)
Rep. Duane Ankney (R)
Rep. Debby Barrett (R)
Rep. Jill Cohenour (D)
Rep. Sue Dickenson (D)
Rep. Betsy Hands (D)
Rep. Gordon R. Hendrick (R)
Rep. Carol Lambert (R)
Rep. Scott Mendenhall (R)
Rep. JP Pomnichowski (D)
Rep. John (Jack) W. Ross (R)
Rep. Veronica Small-Eastman (D)
Rep. Chas Vincent (R)

Members Excused: Rep. Kendall Van Dyk (D)

Members Absent: None

Staff Present: Krista Lee Evans, Legislative Branch
Nancy Kraft, Committee Secretary

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted: SB 51, 3/13/2007; SB 103,
3/13/2007; SB 293, 3/13/2007
Executive Action: None

Informational Testimony:

01:57:46 Jerry Meyer, Forest Service Liaison

Questions from Committee Members and Responses:

01:59:36 Rep. Cohenour
01:59:59 Mr. Harrington
02:00:48 Rep. Cohenour
02:01:06 Krista Evans
02:01:40 Rep. Lambert
02:02:09 Sen. Laible
02:02:58 Rep. Erickson
02:04:14 Mr. Harrington
02:05:45 Sen. Laible
02:05:59 Rep. Vincent
02:06:49 Mr. Harrington
02:08:20 Jerry Meyer
02:08:37 Rep. Barrett
02:09:19 Mr. Harrington
02:10:31 Rep. Barrett
02:14:49 Sen. Laible
02:16:15 Mr. Harrington
02:16:46 Mr. Meyer
02:17:49 Rep. Ross
02:18:50 Mr. Harrington
02:20:15 Rep. Cohenour
02:20:49 Mr. McGinley

Closing by Sponsor:

02:21:30 Sen. Laible

02:23:17 Break

HEARING ON SB 103

Opening Statement by Sponsor:

02:44:04 Sen. Greg Lind (D), SD 50, opened the hearing on SB
103, Revise local government fire protection laws.

EXHIBIT(nah56a03)

Proponents' Testimony:

02:48:47 Brett Waters, Central Valley Fire District, Belgrade-
Bozeman Area

EXHIBIT(nah56a04)

02:52:43 Scott Waldron, Montana Fire Chiefs' Association

HOUSE COMMITTEE ON NATURAL RESOURCES

March 16, 2007

PAGE 5 of 6

02:53:50 Jerry Shepherd, Fire Chief, West Valley Volunteer Fire
Department, Helena, Montana
02:54:20 John Semple, Fire Alliance; and for Doug Neal, Montana
State Fireman's Assoc and Montana State Council of
Professional Firefighters
02:54:57 Cheryl Wood, Montana Association of Counties

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

02:55:56 Rep. Hendrick
02:56:43 Mr. Waldron
02:57:57 Rep. Hands
02:59:02 Mr. Waldron
03:00:07 Rep. McNutt

Closing by Sponsor:

03:00:35 Sen. Lind

Additional Exhibits:

Document pertaining to SB 51; Hearing 03/16/07

EXHIBIT(nah56a05)

Document pertaining to HB 753; Hearing 03/09/07

EXHIBIT(nah56a06)

Greg Lind
3/16/07

Appendix B

TRANSCRIPT

Comments from Greg Petesch to the EQC Study Subcommittee - Meeting of January 26, 2006
Transcribed April 25, 2006

I was asked to discuss the concept of freeholder with the work group. First of all, a freeholder is a person who has titled property that is either legal or equitable title. A freeholder is also further defined as a person who holds an estate in real property either by inheritance or for life. A taxpayer is a different concept because taxes can be paid on personal property in addition to real property. The courts further interpreted freeholder to mean the purchaser and not the seller under a contract for deed and that is the equitable title aspect of the concept. This is a major policy change and that is the reason I am here to discuss this.

Under current fire district laws, those people who own title to real property are the ones who are authorized to petition for the creation or dissolution of a fire district. There have been a large number of cases that have challenged the concept of whether a freeholder status is appropriate.

In a fairly recent case (1995), the Montana Supreme Court said that not allowing people who didn't own real property, those who weren't freeholders, was not inappropriate for an irrigation district, because irrigation districts are special limited purpose units of local government whose function has a disproportionate effect on landowners in the district as a group. Therefore it was appropriate to depart from the usual "strict scrutiny standard" under equal protection that applies to statutes that impact your right to vote, and to use a "rational basis standard" instead. Under equal protection analysis, the minimum standard is the "rational basis". There is a middle tier scrutiny for certain constitutionally recognized functions, and then there is a "strict scrutiny standard" that applies to a specific constitutionally protected entity, and under a "strict security" analysis, essentially the statute is always stricken down.

So with that concept in mind, we discussed some of the varying interpretations of "freeholder". I admit I can't grasp a consistent line of reasoning through the cases that have attempted to apply the equal protection test to a freeholders status. The reason I say that is with regard to annexation laws, the court said that neither a corporation, nor a partnership is considered a freeholder for purposes of annexation. However, for purposes of a planned unit development in Montana they are a resident freeholder. I really can't see the distinction between bringing property into a city, and a statute that tells how you develop property within a city.

The purpose of a fire district is to provide fire protection to people residing in the district. You can reside in the district without owning property. Fire protection is a governmental service that falls within traditional police power of government--it is one of those fundamental things that government is organized for--it is public safety--the same way as police protection is a public safety concept. I believe it's not unlikely that if a challenge were

brought to the freeholder concept for fire protection that a higher standard than a "rational basis" would be likely to be applied.

The same concept was applied to building codes, as to whether a person who didn't own real property could want to be included in an area that had building codes, for example municipalities have residential building codes but the state doesn't, so could you petition to be brought into the "donut area", when we allowed those, if you weren't a property owner. Because you were renting a space in a building, it was felt that it was appropriate that those people who were registered voters in the donut area would be allowed to participate in that type of decision.

I think the same analogy would be applied to a person who was renting property and residing in a fire district. Certainly you want your personal property protected to the same extent you want real property protected. But that is a significant policy change. That is the discussion that was had with the work group. The work group felt that fire protection was a generally applicable provision even though the payment for the fire protection is through levies, and those do fall on the property owners, that fire protection is afforded to everyone in the district whether they are property owners or not once the district is created. So that was the basis upon which the working group proposed making the change from a freeholder requirement for creation or elimination of a fire district and went with the concept of those registered voters.

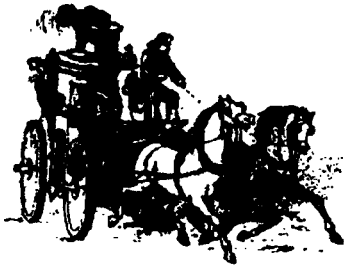


EXHIBIT 4
DATE 3-16-07
SB 103

COLUMBUS VOLUNTEER FIRE DEPARTMENT

P.O. BOX 653
COLUMBUS, MONTANA 59019-0653

March 16, 2007

To the House Natural Resources Committee,

I am writing to ask for your support of SB103 which allows Towns to become part of Rural Fire Districts.

Currently state law mandates that Towns and Rural Fire Districts cannot merge together. This creates two separate fire protection areas that many times could just as effectively be served by a single jurisdiction.

Here in Columbus we have that very situation where the Town of Columbus has a fire Department as well as Rural Fire District #3 which completely surrounds the Town. Currently we have no options under current State law which allows us to consolidate these two entities.

I strongly feel that if communities such as ours were given the choice, which is allowed by SB103, then we could provide for a much more effective and cost efficient form of government and fire protection to our local citizens rather than duplicating so many of our efforts.

This bill would give be a major opportunity for communities like Columbus, Red Lodge, Roundup, Laurel, or any where else in Montana that is currently restricted under current law.

Thank you for your consideration and support.

Respectfully,

A handwritten signature in black ink, appearing to read "RCG", written over a horizontal line.

Rich Cowger
Chief
Columbus Fire Department

**Gallatin Canyon Consolidated Rural Fire District**

210 Box 100882
Bozeman, MT 59710
(406) 905-2100

Friday, March 16, 2007

To: Chair Walter McNutt and members of the House Natural Resources Committee

I am a trustee of the Gallatin Canyon Consolidated Rural Fire District. Our District contains about 65 square miles of area. We are responsible for over 13 miles of Highway 191 (the Gallatin Canyon Highway) as well as the Big Sky community, which extends west from Highway 191 for another 12 to 13 miles.

The statute being amended is over 60 years old. It was enacted when fire districts were smaller and the protection was more rudimentary than now.

The problem with the current law is that a minority of land owners of a parcel within a district can cause it to be divided from the district. The county commissioners must approve the petition, unless a majority of land owners owning more than 50% of the land of the ENTIRE ORIGINAL DISTRICT protest. But, in any large district, such as ours, it would be practically impossible to locate, contact, and obtain protests from all land owners within the entire original district in time for the hearing on the petition. The result is the trustees of the district and the other land owners in the district are effectively denied a voice.

New section 11 continues to permit divisions. It does require a more considered process. The persons seeking to divide and detract a portion of land from the district must present a petition to the trustees. More than 50% of the real property owners must petition. A plan for division is required, including a timetable, names of the new districts, effective date, financial impacts, and a method for a fair and equitable division of the assets between the new districts. The plan is then presented to the county commissioners for approval.

This approach is fair to all parties. Please refer SB 103 to the full House with a recommendation of "Do Pass."

Thank you.

Les Loble
Trustee

HOUSE OF REPRESENTATIVES
Roll Call
NATURAL RESOURCES COMMITTEE

DATE: 3-16-07

<u>NAME</u>	<u>PRESENT</u>	<u>ABSENT/ EXCUSED</u>
REP. WALTER MCNUYT, CHAIR	✓	
REP. RALPH HEINERT, VICE CHAIR	✓	
REP. RON ERICKSON, VICE CHAIR	✓	
REP. DUANE ANKNEY	✓	
REP. DEBBY BARRETT	✓	
REP. JILL COHENOUR.	✓	
REP. SUE DICKENSON	✓	
REP. BETSY HANDS	✓	
REP. GORDON HENDRICK	✓	
REP. CAROL LAMBERT	✓	
REP. SCOTT MENDENHALL	✓	
REP. JP POMNICHOWSKI	✓	
REP. JOHN ROSS	✓	
REP. VERONICA SMALL-EASTMAN	✓	
REP. KENDALL VAN DYK		✓
REP. CHAS VINCENT	✓	

**Montana House of Representatives
Visitors' Register**

NATURAL RESOURCES COMMITTEE

Date 3-16-07

Bill Nos. SB 51; 103; 293 Sponsor(s) Sen. Hawks; Sen. Ivin; Sen. Laible

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

Name	Representing	Bill No.	Support	Oppose	Info.
Myra Shults	JPIA/MACo	SB 51, 103	X		
Peter Kolb	Sec. Am. Foresters	293	X		
Molly Immen	MT Audubon	SB 51/293	X		
Rocky Infanger	Vol. Firemen	SB 51	X		
Everett M "Sonny" Stipe	Retired Fireman	SB 51	X		
Tim RAVMDA	MMVA	SB 51			
Brett Waters	Central Valley, Fire	SB 103	X		
Bob Drake	Tri-Lakes Vol. Fire	SB 103 SB 51	X		
Jerry Shephard	West Valley VFD	SB 103 SB 51	X		
Dave Cook	DLI	SB 51			X
Tim Davis	MSGC	SB 51	X		
Brian Candell	Central Valley Fire Dept	SB 103	X		
DOUG NEIL	MT. ST. FIREMEN	SB 103	X		
Mike Mulvaney	Beaverhead Co	SB 293		X	
Bob Harrington	DRRC	SB 293			
Dustin Stewart	MBIA	SB 51	X		
LINDA STOLL	MISSOULA COUNTY	SB 51		✓	
M.S. KAKUK	MT ASSN FARMERS	SB 51	✓		
Don Allen	WETA	SB 293	✓		

Jason Todhunter

MLA

SB 293

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

EKKENGSTEDT

MCWA

SB 293

✓

Montana House of Representatives Visitors' Register

NATURAL RESOURCES COMMITTEE

Date 3-16-07

Bill Nos. SB 51; 103; Sponsor(s) Sen. Hawks; Sen. Lira; Sen. Laible
293

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PLEASE PRINT

PLEASE PRINT

[illegible]

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 60th LEGISLATURE - REGULAR SESSION

COMMITTEE ON NATURAL RESOURCES

Call to Order: By Chairman Walter McNutt, on March 28, 2007 at 3:00 P.M., in Room 472 Capitol.

ROLL CALL

Members Present:

Rep. Walter McNutt, Chairman (R)
Rep. Ron Erickson, Vice Chairman (D)
Rep. Duane Ankney (R)
Rep. Debby Barrett (R)
Rep. Jill Cohenour (D)
Rep. Sue Dickenson (D)
Rep. Betsy Hands (D)
Rep. Gordon R. Hendrick (R)
Rep. Carol Lambert (R)
Rep. Scott Mendenhall (R)
Rep. JP Pomnichowski (D)
Rep. John (Jack) W. Ross (R)
Rep. Veronica Small-Eastman (D)
Rep. Kendall Van Dyk (D)
Rep. Chas Vincent (R)

Members Excused: Rep. Ralph Heinert, Vice Chairman (R)

Members Absent: None

Staff Present: Krista Lee Evans, Legislative Branch
Nancy Kraft, Committee Secretary

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted: SB 365, 3/15/2007; SB 370,
3/15/2007; SJR 20, 3/15/2007; HB
754, 3/26/2007
Executive Action: HB 754; SB 370; SB 365; SB 51; SB
103; SB 293; SB 200; SB 317

Closing by Sponsor:

01:23:10 Sen. Cooney

01:25:45 Break

EXECUTIVE ACTION ON SB 51

03:43:20 **Motion:** Rep. Erickson moved that SB 51 **BE CONCURRED IN.**

03:43:34 **Motion:** Rep. Erickson moved that SB 51 **BE AMENDED.**
EXHIBIT(nah66a03)

Discussion:

03:43:45 Krista Evans

03:44:34 Rep. Hands

03:45:58 Rep. Pomnichowski

03:46:45 **Vote:** Motion carried unanimously by voice vote. Reps. Heinert, Barrett, Mendenhall, Van Dyk, and Cohenour voted by proxy.

03:47:30 **Motion:** Rep. Erickson moved that SB 51 **BE CONCURRED IN AS AMENDED.**

Discussion:

03:47:44 Rep. Ross

03:48:01 Rep. McNutt

03:48:26 **Vote:** Motion carried unanimously by voice vote. Reps. Heinert, Barrett, Mendenhall, Van Dyk, and Cohenour voted by proxy. Rep. Dickenson will carry this bill.

EXECUTIVE ACTION ON SB 103

03:49:44 **Motion:** Rep. Erickson moved that SB 103 **BE CONCURRED IN.**

03:49:56 **Motion:** Rep. Hands moved that HB 103 **BE AMENDED.**
EXHIBIT(nah66a04)

Discussion:

03:51:30 Krista Evans

03:53:09 Rep. Dickenson

03:54:03 Rep. McNutt

03:54:14 **Vote:** Motion carried unanimously by voice vote. Reps. Heinert, Barrett, Mendenhall, Van Dyk, and Cohenour voted by proxy.

03:54:39 **Motion/Vote:** Rep. Erickson moved that SB 103 **BE CONCURRED IN AS AMENDED**. Motion carried unanimously by voice vote. Reps. Heinert, Barrett, Mendenhall, Van Dyk, and Cohenour voted by proxy. Rep. Dickenson will carry the bill.

EXECUTIVE ACTION ON SB 293

03:55:43 **Motion:** Rep. Erickson moved that SB 293 **BE CONCURRED IN**.

03:55:50 **Motion:** Rep. Erickson moved that SB 293 **BE AMENDED**. **EXHIBIT(nah66a05)**

Discussion:

03:56:14 Rep. Vincent

03:57:38 **Vote:** Motion carried 15-1 by voice vote with Rep. Erickson voting no. Reps. Heinert, Barrett, Mendenhall, Van Dyk, and Cohenour voted by proxy.

03:58:14 **Motion:** Rep. Erickson moved that SB 293 **BE CONCURRED IN AS AMENDED**.

Discussion:

03:58:26 Rep. Vincent

03:59:32 **Vote:** Motion carried unanimously by voice vote. Reps. Heinert, Barrett, Mendenhall, Van Dyk, and Cohenour voted by proxy. Rep. Vincent will carry the bill.

EXECUTIVE ACTION ON SB 200

04:01:27 **Motion/Vote:** Rep. Erickson moved that SB 200 **BE CONCURRED IN**. Motion carried unanimously by voice vote. Reps. Heinert, Barrett, Mendenhall, Van Dyk, and Cohenour voted by proxy. Rep. Lambert will carry the bill.

EXECUTIVE ACTION ON SB 317

04:02:29 **Motion:** Rep. Erickson moved that SB 317 **BE CONCURRED IN**.

Amendments to Senate Bill No. 103
3rd Reading Copy

Requested by Representative Betsy Hands

For the House Natural Resources Committee

Prepared by Krista Lee Evans
March 19, 2007 (12:05pm)

1. Title, line 8.

Following: "~~REQUIRED~~,"

Insert: "CHANGING THOSE WHO MAY PETITION FOR CREATION,
ANNEXATION, DIVISION, AND DISSOLUTION OF RURAL FIRE
DISTRICTS FROM FREEHOLDERS TO REGISTERED VOTERS AND CHANGING
THE PERCENTAGE OF PETITIONERS REQUIRED;"

2. Page 2, line 4 through line 6.

Strike: "THE OWNERS OF" on line 4 through "AREA" on line 6

Insert: "40% or more of the registered voters residing in the
proposed district"

3. Page 2, line 17.

Strike: "REAL PROPERTY OWNER"

Insert: "registered voter residing"

4. Page 3, line 1.

Strike: "REAL PROPERTY OWNER"

Insert: "registered voter who resides"

5. Page 3, line 2.

Following: "district"

Insert: "and who owns parcels of land in the proposed district"

Strike: "OWNER'S"

Insert: "voter's"

6. Page 6, line 29.

Strike: "REAL PROPERTY OWNERS OF"

Insert: "Registered voters residing in"

7. Page 7, line 1.

Strike: "MORE THAN 50%"

Insert: "40% or more"

8. Page 7, line 2.

Strike: "REAL PROPERTY OWNERS"

Insert: "registered voters"

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9. Page 7, line 14.

Strike: "MORE THAN" through "OWNERS"

Insert: "40% or more of the registered voters"

10. Page 8, line 7 through line 9.

Strike: "THE OWNERS OF" on line 7 through "OWNERS IN" on line 9

Insert: "40% or more of the registered voters residing in"

11. Page 8, line 29 through line 30.

Strike: "THE OWNERS OF" on line 29 through "PROPERTY OWNERS" on line 30

Insert: "40% or more of the registered voters who reside"

12. Page 9, line 11 through line 12.

Strike: "A MAJORITY" on line 11 through "OWNERS OF" on line 12

Insert: "at least 40% of the registered voters residing in"

13. Page 9, line 28 through line 29.

Strike: "THE OWNERS OF" on line 28 through "PROPERTY OWNERS" on line 29

Insert: "40% or more of the registered voters residing"

14. Page 10, line 8 through line 9.

Strike: "THE OWNERS OF" on line 8 through "PROPERTY OWNERS OF" on line 9

Insert: "40% or more of the registered voters in"

15. Page 10, line 30 through page 11, line 1.

Strike: "THE OWNERS OF" on page 10, line 30 through "PROPERTY OWNERS OF THE" on page 11, line 1

Insert: "40% or more of the registered voters residing in the"

- END -

HOUSE OF REPRESENTATIVES
Roll Call
NATURAL RESOURCES COMMITTEE

DATE: 3-28-07

<u>NAME</u>	<u>PRESENT</u>	<u>ABSENT/ EXCUSED</u>
REP. WALTER MCNUTT, CHAIR	✓	
REP. RALPH HEINERT, VICE CHAIR		✓
REP. RON ERICKSON, VICE CHAIR	✓	
REP. DUANE ANKNEY	✓	
REP. DEBBY BARRETT	✓	
REP. JILL COHENOUR	✓	
REP. SUE DICKENSON	✓	
REP. BETSY HANDS	✓	
REP. GORDON HENDRICK	✓	
REP. CAROL LAMBERT	✓	
REP. SCOTT MENDENHALL	✓	
REP. JP POMNICHOWSKI	✓	
REP. JOHN ROSS	✓	
REP. VERONICA SMALL-EASTMAN	✓	
REP. KENDALL VAN DYK	✓	
REP. CHAS VINCENT	✓	



HOUSE STANDING COMMITTEE REPORT

March 29, 2007

Page 1 of 2

Mr. Speaker:

We, your committee on **Natural Resources** recommend that **Senate Bill 103** (third reading copy -- blue) be concurred in as amended.

Signed: *Walter McNutt*
Representative Walter McNutt, Chair

To be carried by Representative Sue Dickenson

And, that such amendments read:

1. Title, line 8.

Following: "REQUIRED,"

Insert: "CHANGING THOSE WHO MAY PETITION FOR CREATION, ANNEXATION, DIVISION, AND DISSOLUTION OF RURAL FIRE DISTRICTS FROM FREEHOLDERS TO REGISTERED VOTERS AND CHANGING THE PERCENTAGE OF PETITIONERS REQUIRED;"

2. Page 2, line 4 through line 6.

Strike: "THE OWNERS OF" on line 4 through "AREA" on line 6

Insert: "40% or more of the registered voters residing in the proposed district"

3. Page 2, line 17.

Strike: "REAL PROPERTY OWNER"

Insert: "registered voter residing"

4. Page 3, line 1.

Strike: "REAL PROPERTY OWNER"

Insert: "registered voter who resides"

5. Page 3, line 2.

Following: "district"

Insert: "and who owns parcels of land in the proposed district"

Strike: "OWNER'S"

Committee Vote:

Yes 16, No 0

Fiscal Note Required ____

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Insert: "voter's"

6. Page 6, line 29.

Strike: "REAL PROPERTY OWNERS OF"

Insert: "Registered voters residing in"

7. Page 7, line 1.

Strike: "MORE THAN 50%"

Insert: "40% or more"

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Strike: "REAL PROPERTY OWNERS"

Insert: "registered voters"

9. Page 7, line 14.

Strike: "MORE THAN" through "OWNERS"

Insert: "40% or more of the registered voters"

10. Page 8, line 7 through line 9.

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Insert: "40% or more of the registered voters residing in"

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Strike: "THE OWNERS OF" on line 29 through "PROPERTY OWNERS" on line 30

Insert: "40% or more of the registered voters who reside"

12. Page 9, line 11 through line 12.

Strike: "A MAJORITY" on line 11 through "OWNERS OF" on line 12

Insert: "at least 40% of the registered voters residing in"

13. Page 9, line 28 through line 29.

Strike: "THE OWNERS OF" on line 28 through "PROPERTY OWNERS" on line 29

Insert: "40% or more of the registered voters residing"

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Strike: "THE OWNERS OF" on line 8 through "PROPERTY OWNERS OF" on line 9

Insert: "40% or more of the registered voters in"

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Insert: "40% or more of the registered voters residing in the"

- END -

MINUTES

**MONTANA SENATE
60th LEGISLATURE - REGULAR SESSION**

CONFERENCE COMMITTEE ON HOUSE AMENDMENTS TO SENATE BILL 103

Call to Order: By **CHAIRMAN GREG LIND**, on April 24, 2007 at 9:05 A.M., in Room 303 Capitol.

ROLL CALL

Members Present:

Sen. Greg Lind, Chairman (D)
Rep. Rick Ripley, Vice-Chairman (R)
Sen. Bob Hawks (D)
Sen. Kelly Gebhardt (R)
Rep. Bill McChesney (D)
Rep. Wayne Stahl (R)

Members Excused: None.

Members Absent: None.

Staff Present: Krista Lee Evans, Legislative Branch
Marigail Schreiner, Committee Secretary

Audio Committees: These minutes are in outline form only.
They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted: None.
Executive Action: SB 103

00:00:02 Opening comments by Chairman Lind

EXECUTIVE ACTION ON SB 103

00:02:00 Chairman Lind

00:02:04 Sen. Gebhardt

00:03:29 Rep. Stahl

00:03:49 Chairman Lind

00:04:49 Sen. Gebhardt

00:05:15 Sen. Hawks

00:05:28 Krista Lee Evans, LSD

00:06:41 Sen. Hawks

00:06:50 Chairman Lind

00:07:59 Sen. Murphy, SD 39

00:10:39 Harold Blattie, Montana Association of Counties

EXHIBIT(ccs87sb0103a01)

00:13:10 Sen. Hawks to Harold Blattie

00:15:39 Chairman Lind

00:16:41 Sen. Hawks

00:17:57 Sen. Gebhardt

00:19:38 Chairman Lind to Sen. Gebhardt

00:21:25 Chairman Lind

00:21:49 Sen. Hawks

00:22:11 Sen. Gebhardt

00:22:51 Chairman Lind

00:23:02 Sen. Gebhardt

00:23:31 Chairman Lind

00:24:32 Sen. Gebhardt to Chairman Lind

00:25:36 Rep. Stahl

00:27:29 Rep. McChesney

00:28:16 Chairman Lind

00:28:28 Harold Blattie

00:31:51 Chairman Lind

00:32:08 Rep. Stahl

00:33:22 Sen. Gebhardt

00:34:22 **Motion:** SEN. GEBHARDT moved that SB 103 be
CONCEPTUALLY amended.

Discussion:

00:34:28 Sen. Gebhardt

00:34:45 Chairman Lind

00:35:03 Sen. Hawks to Sen. Gebhardt

00:35:49 Chairman Lind to Sen. Gebhardt

00:36:13 Rep. Stahl

00:37:21 Sen. Gebhardt

00:37:42 Rep. Stahl

00:38:00 Sen. Gebhardt

00:38:09 **Vote:** Motion to CONCEPTUALLY amend SB 103 failed with
REP. MCCHESENEY, REP. RIPLEY, REP. STAHL and SEN.
GEBHARDT voting aye and SEN. LIND and SEN. HAWKS voting
no.

Further Discussion:

00:39:40 Sen. Gebhardt

00:39:46 Sen. Hawks

00:40:47 Chairman Lind

00:41:24 Sen. Gebhardt
00:42:39 Sen. Hawks
00:42:53 Sen. Lind
00:43:08 Harold Blattie
00:44:43 Chairman Lind
00:44:54 Krista Lee Evans
00:46:08 Sen. Gebhardt
00:46:55 Chairman Lind to Krista Lee Evans
00:47:22 Rep. Stahl
00:47:45 Sen. Hawks
00:48:13 Krista Lee Evans
00:48:49 Chairman Lind
00:49:21 Sen. Gebhardt
00:49:37 Chairman Lind to Sen. Gebhardt
00:50:06 Sen. Gebhardt
00:50:33 Krista Lee Evans
00:50:47 Chairman Lind recessed the Conference Committee until
12:30 p.m. on April, 24, 2007.

ADJOURNMENT

Adjournment: 9:54 A.M.

SEN. GREG LIND, Chairman

MARIGAIL SCHREINER, Secretary

RR/GL/ms

Additional Exhibits:

EXHIBIT (ccs87sb0103aad.pdf)

Appendix B

DATE: 4-24-07
BILL: JB 103

TRANSCRIPT

Comments from Greg Petesch to the EQC Study Subcommittee - Meeting of January 26, 2006
Transcribed April 25, 2006

I was asked to discuss the concept of freeholder with the work group. First of all, a freeholder is a person who has titled property that is either legal or equitable title. A freeholder is also further defined as a person who holds an estate in real property either by inheritance or for life. A taxpayer is a different concept because taxes can be paid on personal property in addition to real property. The courts further interpreted freeholder to mean the purchaser and not the seller under a contract for deed and that is the equitable title aspect of the concept. This is a major policy change and that is the reason I am here to discuss this.

Under current fire district laws, those people who own title to real property are the ones who are authorized to petition for the creation or dissolution of a fire district. There have been a large number of cases that have challenged the concept of whether a freeholder status is appropriate.

In a fairly recent case (1995), the Montana Supreme Court said that not allowing people who didn't own real property, those who weren't freeholders, was not inappropriate for an irrigation district, because irrigation districts are special limited purpose units of local government whose function has a disproportionate effect on landowners in the district as a group. Therefore it was appropriate to depart from the usual "strict scrutiny standard" under equal protection that applies to statutes that impact your right to vote, and to use a "rational basis standard" instead. Under equal protection analysis, the minimum standard is the "rational basis". There is a middle tier scrutiny for certain constitutionally recognized functions, and then there is a "strict scrutiny standard" that applies to a specific constitutionally protected entity, and under a "strict security" analysis, essentially the statute is always stricken down.

So with that concept in mind, we discussed some of the varying interpretations of "freeholder". I admit I can't grasp a consistent line of reasoning through the cases that have attempted to apply the equal protection test to a freeholders status. The reason I say that is with regard to annexation laws, the court said that neither a corporation, nor a partnership is considered a freeholder for purposes of annexation. However, for purposes of a planned unit development in Montana they are a resident freeholder. I really can't see the distinction between bringing property into a city, and a statute that tells how you develop property within a city.

The purpose of a fire district is to provide fire protection to people residing in the district. You can reside in the district without owning property. Fire protection is a governmental service that falls within traditional police power of government--it is one of those fundamental things that government is organized for--it is public safety--the same way as police protection is a public safety concept. I believe it's not unlikely that if a challenge were

brought to the freeholder concept for fire protection that a higher standard than a "rational basis" would be likely to be applied.

The same concept was applied to building codes, as to whether a person who didn't own real property could want to be included in an area that had building codes, for example municipalities have residential building codes but the state doesn't, so could you petition to be brought into the "donut area", when we allowed those, if you weren't a property owner. Because you were renting a space in a building, it was felt that it was appropriate that those people who were registered voters in the donut area would be allowed to participate in that type of decision.

I think the same analogy would be applied to a person who was renting property and residing in a fire district. Certainly you want your personal property protected to the same extent you want real property protected. But that is a significant policy change. That is the discussion that was had with the work group. The work group felt that fire protection was a generally applicable provision even though the payment for the fire protection is through levies, and those do fall on the property owners, that fire protection is afforded to everyone in the district whether they are property owners or not once the district is created. So that was the basis upon which the working group proposed making the change from a freeholder requirement for creation or elimination of a fire district and went with the concept of those registered voters.

ROLL CALL

[illegible]

ROLL CALL VOTE *on Conceptual Amendment*

[illegible]

2007 Montana Legislature

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SENATE BILL NO. 103
INTRODUCED BY G. LIND
BY REQUEST OF THE ENVIRONMENTAL QUALITY COUNCIL

AN ACT GENERALLY REVISING LOCAL GOVERNMENT FIRE PROTECTION LAWS; CHANGING THOSE WHO MAY PETITION FOR CREATION, ANNEXATION, DIVISION, AND DISSOLUTION OF RURAL FIRE DISTRICT FROM FREEHOLDERS TO OWNERS OF 40 PERCENT OR MORE OF THE REAL PROPERTY WITHIN THE PROPOSED DISTRICT AND OWNERS OF PROPERTY REPRESENTING 40 PERCENT OR MORE OF THE TAXABLE VALUE OF THE PROPERTY WITHIN THE PROPOSED DISTRICT AND CHANGING THE PERCENTAGE OF PETITIONERS REQUIRED; ALLOWING CERTAIN CITIES AND TOWNS TO BE INCLUDED IN A RURAL FIRE DISTRICT; PROHIBITING SIGNATURES FROM BEING WITHDRAWN FROM A PETITION AFTER A CERTAIN TIME PERIOD; REVISING THE POWERS AND DUTIES OF RURAL FIRE DISTRICT TRUSTEES; REMOVING LIMITATIONS ON TRUSTEES' ABILITY TO ENTER INTO CONTRACTS FOR FIRE PROTECTION SERVICES; PROVIDING THAT TWO OR MORE RURAL FIRE DISTRICTS THAT CONSOLIDATE RESULT IN A NEW RURAL FIRE DISTRICT FOR MILL LEVY PURPOSES; REVISING HOW A RURAL FIRE DISTRICT MAY BE DIVIDED AND THE REQUIREMENTS FOR DIVISION; ALLOWING TERRITORY WITHIN CERTAIN CITIES AND TOWNS TO BE ANNEXED INTO A RURAL FIRE DISTRICT; REQUIRING A COUNTY GOVERNING BODY TO EITHER PROVIDE DIRECT FIRE PROTECTION TO COUNTY LAND OR TO ENTER INTO AN AGREEMENT FOR THAT PROTECTION; REMOVING THE PROHIBITION ON MORE THAN ONE FIRE COMPANY FOR CERTAIN LOCATIONS; REMOVING THE PROVISION THAT RURAL FIRE DISTRICT CHIEFS SERVE WITHOUT COMPENSATION; REMOVING THE PROVISION ALLOWING VOLUNTARY URBAN FIRE CREWS FOR USE IN RURAL AREAS; AMENDING SECTIONS 7-33-2101, 7-33-2102, 7-33-2103, 7-33-2104, 7-33-2105, 7-33-2106, 7-33-2107, 7-33-2109, 7-33-2120, 7-33-2121, 7-33-2123, 7-33-2124, 7-33-2125, 7-33-2126, 7-33-2127, 7-33-2128, 7-33-2202, 7-33-2205, 7-33-2206, 7-33-2210, 7-33-2311, 7-33-2313, AND 7-33-2401, MCA; AND REPEALING SECTIONS 7-33-2122, 7-33-2204, AND 7-33-2207, MCA.

AN ACT GENERALLY REVISING LOCAL GOVERNMENT FIRE PROTECTION LAWS; CHANGING THOSE WHO MAY PETITION FOR CREATION, ANNEXATION, DIVISION, AND DISSOLUTION OF RURAL FIRE DISTRICT FROM FREEHOLDERS TO OWNERS OF 40 PERCENT OR MORE OF THE REAL PROPERTY WITHIN THE PROPOSED DISTRICT AND OWNERS OF PROPERTY REPRESENTING 40 PERCENT OR MORE OF THE TAXABLE VALUE OF THE PROPERTY WITHIN THE PROPOSED DISTRICT AND CHANGING THE PERCENTAGE OF PETITIONERS REQUIRED; ALLOWING CERTAIN CITIES AND TOWNS TO BE INCLUDED IN A RURAL FIRE DISTRICT; PROHIBITING SIGNATURES FROM BEING WITHDRAWN FROM A PETITION AFTER A CERTAIN TIME PERIOD; REVISING THE POWERS AND DUTIES OF RURAL

FIRE DISTRICT TRUSTEES; REMOVING LIMITATIONS ON TRUSTEES' ABILITY TO ENTER INTO CONTRACTS FOR FIRE PROTECTION SERVICES; PROVIDING THAT TWO OR MORE RURAL FIRE DISTRICTS THAT CONSOLIDATE RESULT IN A NEW RURAL FIRE DISTRICT FOR MILL LEVY PURPOSES; REVISING HOW A RURAL FIRE DISTRICT MAY BE DIVIDED AND THE REQUIREMENTS FOR DIVISION; ALLOWING TERRITORY WITHIN CERTAIN CITIES AND TOWNS TO BE ANNEXED INTO A RURAL FIRE DISTRICT; REQUIRING A COUNTY GOVERNING BODY TO EITHER PROVIDE DIRECT FIRE PROTECTION TO COUNTY LAND OR TO ENTER INTO AN AGREEMENT FOR THAT PROTECTION; REMOVING THE PROHIBITION ON MORE THAN ONE FIRE COMPANY FOR CERTAIN LOCATIONS; REMOVING THE PROVISION THAT RURAL FIRE DISTRICT CHIEFS SERVE WITHOUT COMPENSATION; REMOVING THE PROVISION ALLOWING VOLUNTARY URBAN FIRE CREWS FOR USE IN RURAL AREAS; AMENDING SECTIONS 7-33-2101, 7-33-2102, 7-33-2103, 7-33-2104, 7-33-2105, 7-33-2106, 7-33-2107, 7-33-2109, 7-33-2120, 7-33-2121, 7-33-2123, 7-33-2124, 7-33-2125, 7-33-2126, 7-33-2127, 7-33-2128, 7-33-2202, 7-33-2205, 7-33-2206, 7-33-2210, 7-33-2311, 7-33-2313, AND 7-33-2401, MCA; AND REPEALING SECTIONS 7-33-2122, 7-33-2204, AND 7-33-2207, MCA.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 7-33-2101, MCA, is amended to read:

"7-33-2101. Rural fire districts authorized -- petition. (1) The board of county commissioners is authorized to establish fire districts in any unincorporated territory or, subject to subsection (2), incorporated third-class city or town upon presentation of a petition in writing signed by the owners of 50% or more of the area of the privately owned lands included within the proposed district who constitute a majority of the taxpayers who are freeholders of such area and whose names appear upon the last completed assessment roll the owners of 40% or more of the real property in the proposed district and owners of property representing 40% or more of the taxable value of property in the proposed district.

(2) (a) Third-class cities and towns may be included in the district upon approval by the city or town governing body.

(b) A third-class city or town may withdraw from a district 2 years after providing to the board of county commissioners notice of intent to withdraw."

Section 2. Section 7-33-2102, MCA, is amended to read:

"7-33-2102. Notice of hearing. The board shall, within 10 days after the receipt of the petition, give notice

of the hearing at least 10 days prior to the hearing:

- (1) by mailing a copy of the notice as provided in 7-1-2122 or as provided in 7-1-4129 if the proposed district or a portion of the proposed district is in an incorporated third-class city or town to each freeholder registered voter and real property owner residing in the proposed district at the address shown in the assessment roll; and
- (2) by publishing the notice as provided in 7-1-2121 or as provided in 7-1-4127 if the proposed district or portion of the proposed district is in an incorporated third-class city or town."

Section 3. Section 7-33-2103, MCA, is amended to read:

"7-33-2103. Hearing on petition -- decision. (1) ~~(a)~~ The board shall ~~proceed to~~ hear the petition at the time set or at any time within 5 days ~~thereafter to which the same is postponed or continued with due notice and may grant the same unless it is established thereat~~ of the time set if reasonable notice of the postponement is given. The board may establish the district unless it determines that the petition bears insufficient signatures ~~as above required~~ or, if originally sufficient, that by reason of written withdrawals ~~thereof~~ of signatures it has become insufficient.

(b) Signatures may not be withdrawn fewer than 20 days before the date set for adoption of the petition.

(2) The board may adjust the boundaries of the proposed district to reflect ~~any freeholder's~~ the written request of any real property owner who resides in the proposed district for subtraction or annexation of parcels of the ~~freeholder's~~ property owner's land adjacent to the boundary line of the proposed district. ~~Such~~ The written request must be submitted to the board prior to or on the date set for hearing on the petition.

(3) The board shall render its decision within 30 days after the hearing."

Section 4. Section 7-33-2104, MCA, is amended to read:

"7-33-2104. Operation of fire districts. ~~Whenever the~~ When a board of county commissioners ~~shall have established~~ establishes a fire district in any unincorporated territory; or incorporated third-class city or town, or village; ~~said the~~ commissioners:

- (1) may contract with a city, town, ~~or private fire company,~~ or other public entity to furnish all fire protection services for property within ~~said the~~ district; or
- (2) shall appoint five qualified trustees to govern and manage the ~~affairs of the~~ fire district."

Section 5. Section 7-33-2105, MCA, is amended to read:

"7-33-2105. Powers and duties of trustees. (1) The trustees:

(a) shall prepare and adopt suitable bylaws;

~~(2)(b) The trustees~~ have the authority to provide adequate and standard firefighting and emergency response apparatus, equipment, personnel, housing, and facilities, including real property and emergency medical services and equipment, for the protection of the district; ~~They shall~~

(c) may appoint and form fire companies that have the same duties, exemptions, and privileges as other fire companies for retirement purposes only:-

~~(3) The trustees~~ (d) shall prepare annual budgets and request special levies for the budgets. The budget laws relating to county budgets must, as far as applicable, apply to fire districts.

(e) may enter into contracts as provided in 7-33-2107; and

(f) may pledge income to secure financing of the district as provided in 7-33-2109.

(2) All money received by the trustees must be deposited in the county treasurer's office and credited to the fire district."

Section 6. Section 7-33-2106, MCA, is amended to read:

"7-33-2106. Details relating to board of trustees of fire district. (1) (a) The five trustees initially appointed by the county commissioners hold staggered terms of office until their successors are elected or appointed and qualified as provided in this section.

(b) The initial trustees' terms of office must be drawn by lot and include:

(i) 3 years for one trustee;

(ii) 2 years for two trustees; and

(iii) 1 year for two trustees.

(c) Upon expiration of the terms provided in subsection (1)(b), each trustee shall serve a 3-year term of office.

(2) Trustees must be elected as provided in 13-1-104(3), 13-1-401, and subsection (3) of this section or appointed as provided in subsection (4) of this section. The term of office is 3 years beginning at the first district meeting following their election or appointment and continuing until their successors are elected or appointed and qualified. Appointments to fill vacancies occurring during the term of office of a trustee must be made by the county governing body and appointees shall hold office until the next regular election. An elector, as defined in Title 13, who resides in the district or any holder of title to lands within the district who presents a proof of payment of taxes on the lands at the polling place is eligible to vote in the election.

(3) Candidates for the office of trustee of the fire district to be filled by election may be nominated by petition filed with the election administrator or deputy election administrator at least 75 days before the election day and signed by at least five electors of the district.

(4) If the number of candidates is equal to or less than the number of positions to be elected, the election administrator may cancel the election in accordance with 13-1-304. If an election is not held, the county governing body shall declare elected by acclamation each candidate who filed a nominating petition for a position. If a nomination is not made for one or more trustee offices, the county governing body shall appoint one or more trustees as necessary to fill those offices. A trustee taking office pursuant to this subsection serves the trustee term of office as if that trustee had been elected.

(5) The trustees shall organize by choosing ~~a~~ presiding officer officers and appointing one member to act as secretary."

Section 7. Section 7-33-2107, MCA, is amended to read:

"7-33-2107. Contracts for fire protection services. (1) The trustees of ~~such a~~ fire district, ~~provided that the~~ owners of 10% of the taxable value of the property in any such fire district may elect to make such a contract:

~~—(a) may contract with the council of any city or town or with the trustees of any other fire district established in any unincorporated territory, town, or village which has any boundary line lying within 5 straight-line miles of any boundary line of such district, whether the city or town or other fire district shall lie within the same county or another county, for the extension of fire protection service by the city or town or by such other fire district to property included within such district; and~~

~~—(b) may agree to pay a reasonable consideration therefor.~~

~~—(2) Likewise, the trustees may contract to permit such fire district's equipment and facilities to be used by the cities, towns, or other fire districts which have any boundary lines lying within 5 straight-line miles of any boundary line of such district.~~

~~—(3) Likewise, the trustees may enter into contracts with public or private parties under which such district fire company may extend fire protection to public or private property lying outside of such district or any other district or city limits but within 5 straight-line miles of any boundary line of such district, whether such public or private property shall lie within the same county or another county. Such district fire company may use such fire district's equipment and facilities outside of such district in the performance of such contracts may enter into contracts for fire protection services.~~

~~(4)~~(2) All money received from ~~such~~ contracts shall must be deposited in the county treasurer's office and credited to the fire district fund holding ~~such~~ the contracts.

~~(5)~~(3) The relationship between the fire district and the ~~city, town, or private fire service shall be~~ entity with which the district has contracted is that of an independent contractor."

Section 8. Section 7-33-2109, MCA, is amended to read:

"7-33-2109. Tax levy, debt incurrence, and bonds authorized. (1) At the time of the annual levy of taxes, the board of county commissioners may, subject to 15-10-420, levy a special tax upon all property within a rural fire district for the purpose of buying or maintaining fire protection facilities, including real property, and apparatus, including emergency response apparatus, for the district or for the purpose of paying to a city, town, or private fire service the consideration provided for in any contract with the council of the city, town, or private fire service for the purpose of furnishing fire protection service to property within the district. The tax must be collected as are other taxes.

(2) The board of county commissioners or the trustees, if the district is governed by trustees, may pledge the income of the district, subject to the requirements and limitations of 7-33-2105(3)(1)(d), to secure financing necessary to procure equipment and buildings, including real property, to house the equipment.

(3) In addition to the levy authorized in subsection (1), a district may borrow money by the issuance of bonds to provide funds for the payment of all or part of the cost of buying or maintaining fire protection facilities, including real property, and apparatus, including emergency response apparatus, for the district.

(4) The amount of debt incurred pursuant to subsection (2) and the amount of bonds issued pursuant to subsection (3) and outstanding at any time may not exceed 1.1% of the total assessed value of taxable property, determined as provided in 15-8-111, within the district, as ascertained by the most recent assessment for state and county taxes prior to the incurrence of debt or the issuance of the bonds.

(5) The bonds must be authorized, sold, and issued and provisions must be made for their payment in the manner and subject to the conditions and limitations prescribed for the issuance of bonds by counties under Title 7, chapter 7, part 22."

Section 9. Section 7-33-2120, MCA, is amended to read:

"7-33-2120. Consolidation of fire districts -- mill levy limitations. (1) Two or more rural fire districts may consolidate to form a single rural fire district upon an affirmative vote of each rural fire district's board of trustees. At the time they vote to consolidate, the boards of trustees ~~must~~ shall also adopt a consolidation plan. The plan must contain:

(a) a timetable for consolidation, including the effective date of consolidation, which must be after the time allowed for protests to the creation of the consolidated rural fire district under subsection (3);

(b) the name of the new rural fire district;

(c) a boundary map of the new rural fire district; and

(d) the estimated financial impact of consolidation on the average taxpayer within the proposed district.

(2) Within 14 days of the date that the trustees vote to consolidate, notice of the consolidation must be published as provided in 7-1-2121 or as provided in 7-1-4127 if the district or part of the district is in an incorporated third-class city or town in each county in which any part of the consolidated fire district will be located. A public hearing on the consolidation must be held within 14 days of the first publication of notice. The hearing must be held before the joint boards of trustees at a time and place set forth in the publication of notice.

(3) ~~Property owners of~~ Real property owners in each affected rural fire district may submit written protests opposing consolidation to the trustees of their district. If within 21 days of the first publication of notice ~~more than 50%~~ the owners of 40% or more of the property owners real property in an existing district and owners of property representing 40% or more of the taxable value of property in an existing district protest the consolidation, it is void.

(4) After consolidation, the former rural fire districts constitute a single rural fire district governed under the provisions of 7-33-2104 through 7-33-2106.

(5) The consolidation of two or more rural fire districts pursuant to this section results in the creation of a new rural fire district for the purposes of determining mill levy limitations."

Section 10. Section 7-33-2121, MCA, is amended to read:

"7-33-2121. Division of fire district authorized. Fire districts may be divided as provided in 7-33-2122 through 7-33-2123, 7-33-2124, and [section 11]."

Section 11. Division of district -- petition -- plan for division. (1) (a) A fire district's board of trustees may vote to divide the district upon an affirmative vote of the board and upon receipt of a petition signed by the owners of 40% or more of the real property within the area proposed to be detracted from the original district and owners of property representing 40% or more of the taxable value of property in the area proposed to be detracted from the original district.

(b) The petition must describe the boundaries of the proposed detracted area and the boundaries of the remaining area.

(2) At the time it votes to divide, the board shall adopt a division plan that contains:

(a) a timetable for division, including the effective date, that must be after the time allowed for protests to the division;

(b) the names of the new rural fire districts;

(c) the boundary maps of the new districts;

(d) the estimated financial impact of the division on an owner of a home valued at \$100,000; and

(e) a method for the fair and equitable division of the assets and liabilities of the original district among the new districts.

(3) The board of trustees shall forward the plan to the board of county commissioners in the county where the districts are located.

(4) Within 21 days of receipt of the plan, the board of county commissioners shall set a date for a public hearing on the division and shall give notice of the hearing as provided in 7-1-2121 or as provided in 7-1-4127 if any part of the proposed detracted area is within the limits of an incorporated city or town.

Section 12. Section 7-33-2123, MCA, is amended to read:

"7-33-2123. Decision on petition for division -- protest. The petition ~~shall~~ must be granted and the original districts ~~shall thereupon must~~ be divided into separate districts unless at the time of the hearing on ~~such~~ the petition protests ~~shall be~~ are presented by the owners of 50% or more of the area of the privately owned lands included within the entire original district who constitute a majority of the taxpayers who are freeholders of the owners of 40% or more of the real property in the entire original district and owners of property representing 40% or more of the taxable value of property in the entire original district and whose names appear upon the last completed assessment roll. If such the required ~~amount~~ number of protests are presented, the petition for division ~~shall be disallowed~~ may not be approved."

Section 13. Section 7-33-2124, MCA, is amended to read:

"7-33-2124. Distribution of assets and liabilities following division. (1) Upon the division of districts, money on hand shall be apportioned between the divided areas according to their respective taxable valuations. All other assets of the original district shall become the property of the remaining area, but a reasonable value shall be placed upon such other assets, and the remaining area shall become indebted to the detracted area for its proportionate share thereof, based upon taxable valuations the assets and liabilities of the original rural fire district must be distributed in accordance with the division plan as provided in [section 11].

(2) Any detracted area ~~shall remain~~ is liable for any existing warrant and bonded indebtedness of the original district."

Section 14. Section 7-33-2125, MCA, is amended to read:

"7-33-2125. Annexation of adjacent territory not contained in a fire district. (1) Adjacent territory within or outside of the limits of an incorporated third-class city or town that is not already a part of a fire district may be annexed in the following manner:

(a) A petition in writing by ~~the owners of 50% or more of the area of privately owned lands of the adjacent area proposed to be annexed who constitute a majority of the taxpaying freeholders~~ the owners of 40% or more of the real property within the proposed area to be annexed and owners of property representing 40% or more of the taxable value of property within the proposed area to be annexed and whose names appear upon the last-completed assessment roll must be presented to the board of trustees of the district for approval. If the proposed annexation is approved by the board of trustees, the petition must be presented to the board of county commissioners.

(b) At the first regular meeting of the board of county commissioners after the presentation of the petition, the commissioners shall set a date to hold a hearing on the petition. The date of the hearing may not be less than 4 weeks after the date of the presentation of the petition to the board of county commissioners. The board of county commissioners shall publish notice of the hearing as provided in 7-1-2121 or as provided in 7-1-4127 if any part of the area proposed to be annexed is within an incorporated third-class city or town.

(2) On the date set for the hearing, the board of county commissioners shall consider the petition and any objections to the annexation. The board shall approve the annexation unless a protest petition signed by ~~a majority of the landowners of~~ at least 40% of the owners of real property in the area proposed for annexation and owners of property representing 40% or more of the taxable value of the property in the area proposed for annexation is presented at the hearing, in which case the annexation must be disapproved.

(3) The annexed territory is liable for any outstanding warrant and bonded indebtedness of the original district.

(4) (a) Territory that is within the limits of an incorporated third-class city or town may only be annexed upon the approval of the city or town governing body.

(b) A third-class city or town may withdraw from the district territory that has been annexed under this section 2 years after providing to the board of county commissioners notice of intent to withdraw."

Section 15. Section 7-33-2126, MCA, is amended to read:

"7-33-2126. Annexation of adjacent territory contained in a fire district. (1) Adjacent territory that is already a part of a fire district may withdraw from ~~such~~ the fire district and become annexed to another fire district in the following manner:

(a) A petition in writing by ~~the owners of 50% or more of the privately owned lands of an area which is part of any organized fire district who constitute a majority of the taxpaying freeholders~~ 40% or more of the owners of real property within the area proposed to be transferred and owners of 40% or more of the taxable value of the property within such the area according to the last-completed assessment roll shall proposed to be transferred must be presented to the county commissioners, asking that ~~such~~ the area be transferred to and included in any

other organized fire district to which ~~said~~ the area is adjacent. The petition must ~~set forth~~ describe the change of boundaries to be affected by ~~such~~ the proposed transfer of area.

(b) The commissioners shall hold a hearing on the petition in accordance with the procedure outlined in ~~7-33-2122~~ [section 11]. The ~~withdrawal and annexation shall~~ transfer must be allowed unless protests are presented at the hearing by ~~the owners of 50% or more of the area of the privately owned lands included within either district affected who constitute a majority of the taxpaying freeholders of~~ the owners of 40% or more of the real property in either district and owners of property representing 40% or more of the taxable value in either district ~~according to the last completed assessment roll.~~

(2) The ~~withdrawals and annexation shall~~ transfer may be allowed only upon a showing of more advantageous proximity and communications with the firefighting facilities of the other district."

Section 16. Section 7-33-2127, MCA, is amended to read:

"7-33-2127. Withdrawal by owner of individual tract adjacent to municipality. In lieu of the detraction procedure ~~set forth~~ provided in ~~7-33-2122 and~~ 7-33-2123 and [section 11], whenever a person owns land adjacent to a city or town and wishes to have only that land annexed to the city or town, the land may be detracted as follows:

(1) The owner shall mail notice to the chairman of the trustees of the fire district or, if none, to the board of county commissioners of ~~his~~ the owner's intention to request annexation.

(2) The owner shall attach a copy of this notice of intention to ~~his~~ the petition to the municipal governing body requesting annexation.

(3) Following adoption of the annexation order under 7-2-4714, the land is detracted from the fire district."

Section 17. Section 7-33-2128, MCA, is amended to read:

"7-33-2128. Dissolution of fire district. Any (1) Subject to subsection (2), a fire district organized under this part may be dissolved by the board of county commissioners upon presentation of a petition ~~therefor~~ for dissolution signed by ~~the owners of 50% or more of the area of the privately owned lands included within such fire district who constitute a majority of the taxpayers who are freeholders of such~~ the owners of 40% or more of the real property in the area and owners of property representing 40% or more of the taxable value of property in the area ~~and whose names appear upon the last completed assessment roll.~~ The procedure and requirements ~~outlined~~ provided in 7-33-2101 through 7-33-2103 ~~shall~~ apply to ~~such~~ requests for dissolution of fire districts.

(2) A board of county commissioners may not dissolve a fire district that includes territory within the limits of an incorporated third-class city or town unless the dissolution is approved by the governing body of the city or

town."

Section 18. Section 7-33-2202, MCA, is amended to read:

"7-33-2202. Functions of county governing body. (1) The county governing body, with respect to rural fire control, shall carry out the specific authorities and duties imposed in this section:

~~(1)~~(2) The governing body shall:

(a) provide for the organization of volunteer rural fire control crews; and

(b) provide for the formation of county volunteer fire companies.

~~(2)~~(3) The governing body shall appoint a county rural fire chief and ~~such as many~~ district rural fire chiefs, subject to the direction and supervision of the county rural fire chief, as it considers necessary.

~~(3)~~(4) The county governing body shall, within the limitations of 7-33-2205, ~~through 7-33-2209~~ 7-33-2206, 7-33-2208, and 7-33-2209, either:

(a) directly protect the range, farm, and forest lands within the county from fire ~~land in the county that is not in~~ a forest fire protection district, as provided in 76-13-204, or under the protection of a municipality, state agency, or federal agency; or

(b) enter into an agreement for forest fire protection with a recognized agency, as that term is defined in 76-13-102.

~~(4)~~(5) The county governing body may enter into mutual aid agreements for itself and for county volunteer fire companies with:

(a) other fire districts;

(b) unincorporated municipalities;

(c) incorporated municipalities;

(d) state agencies;

(e) private fire prevention agencies;

(f) federal agencies;

(g) fire service areas; or

(h) governing bodies of other political subdivisions.

~~(5)~~(6) If the county governing body has not concluded a mutual aid agreement, the county governing body, a representative of the county governing body, or an incident commander may request assistance pursuant to 10-3-209."

Section 19. Section 7-33-2205, MCA, is amended to read:

"7-33-2205. Establishment of fire season -- permit requirements -- reimbursement of costs. (1) The county governing body may in its discretion establish fire seasons annually, during which a person may not ignite or set a forest fire, including a slash-burning fire, land-clearing fire, debris-burning fire, or open fire within the county protection area on any residential or commercial property, forest, range, or croplands subject to the provisions of this part without having obtained an official written permit or permission to ignite or set a fire from the recognized protection agency for that protection area.

(2) A permit or permission is not needed for recreational fires measuring less than 48 inches in diameter that are surrounded by a nonflammable structure and for which a suitable source of extinguishing the fire is available.

(3) A person who purposely ignites a fire in violation of this section shall reimburse the county governing body or recognized protection agency for costs incurred for any fire suppression activities resulting from the illegal fire, as provided in 50-63-103."

Section 20. Section 7-33-2206, MCA, is amended to read:

"7-33-2206. Violations. A person who ignites or sets a forest fire, including a slash-burning fire, land-clearing fire, debris-burning fire, or open fire on any residential or commercial property, forest, range, or cropland subject to the provisions of this part without first having obtained a written permit or permission from the recognized protection agency for that protection area to ignite or set the fire is guilty of a misdemeanor."

Section 21. Section 7-33-2210, MCA, is amended to read:

"7-33-2210. State to be reimbursed for forest fire suppression activities in noncooperating counties. A county that has not entered into a cooperative or other written agreement with the state for forest protection shall reimburse the state for costs incurred by the state in connection with state fire suppression activities resulting from a forest fire emergency on land in that county that is not in a forest fire protection district, as provided in 76-13-204, or protected through an agreement with a recognized agency, as provided in 7-33-2202 (4)(b)."

Section 22. Section 7-33-2311, MCA, is amended to read:

"7-33-2311. Fire companies authorized. (1) Fire companies in unincorporated towns and villages are organized by filing with the county clerk of the county in which they are located a certificate in writing, signed by the presiding officer and secretary, ~~setting forth~~ providing the date of organization, name, officers, and roll of active and honorary members or a copy of the certificate provided for in 19-17-402. The certificate and filing

must be renewed annually on or before September 1.

~~(2) A town or village is not allowed more than one company for each 1,000 inhabitants, but one company must be allowed in a city, town, or village in which the population is less than 1,000.~~

~~—(3)(2) A fire company is not allowed more than 28 certificate members."~~

Section 23. Section 7-33-2313, MCA, is amended to read:

"7-33-2313. Powers and duties of chief -- request for assistance -- definitions. (1) The chief of every fire ~~department~~ company shall inquire into the cause of every fire occurring in the town in which the chief serves as the chief and shall keep a record of every fire. The chief shall aid in the enforcement of all fire ordinances, examine buildings in the process of erection, report violations of ordinances relating to prevention or extinguishment of fires and, when directed by the proper authorities, institute prosecutions for the violation of those ordinances, and perform other duties as may be imposed upon the chief by proper authority. The chief's compensation, if any, must be fixed and paid by the city or town authorities. The chief shall attend all fires, with the chief's badge of office conspicuously displayed. The chief shall prevent injury to, take charge of, and preserve all property rescued from fires and return it to the owner on the payment of the expenses incurred in saving and keeping it. The amount of the expenses, when not agreed to, must be fixed by a justice of the peace.

(2) The chief shall devise and formulate or cause to be devised and formulated a course or plan of instruction or training program making available to each regular member of the chief's ~~department~~ company not less than 30 hours of instruction each year in matters pertaining to firefighting. The chief shall supervise the operation of the training plan or program and maintain training records for each current and former firefighter for the purposes of the public employees' retirement board provided for in 2-15-1009.

(3) If the county commissioners, trustees of a fire district, or governing body of a fire service area have not concluded a mutual aid agreement to protect an unincorporated town or village against natural incidents, emergencies, or disasters or incidents, emergencies, or disasters caused by persons, the chief may request assistance pursuant to 10-3-209.

(4) As used in this section, ~~"incidents", "disasters", or "emergencies", and "incidents" have~~ has the meaning provided in 10-3-103."

Section 24. Section 7-33-2401, MCA, is amended to read:

"7-33-2401. Fire service area -- establishment -- alteration -- dissolution. (1) Upon receipt of a petition signed by at least 30 owners of real property in the proposed service area, or by a majority of the owners of real property if there are no more than 30 owners of real property in the proposed service area, the board of county

commissioners may establish a fire service area within an unincorporated area not part of a rural fire district in the county to provide the services and equipment set forth in 7-33-2402.

(2) To establish a fire service area, the board shall:

(a) pass a resolution of intent to form the area, with public notice as provided in 7-1-2121 ~~and written notice as provided in 7-1-2122~~;

(b) hold a public hearing no earlier than 30 or later than 90 days after passage of the resolution of intent;

(c) at the public hearing:

(i) accept written protests from property owners of the area of the proposed area; and

(ii) receive general protests and comments relating to the establishment of the fire service area and its boundaries, rates, kinds, types, or levels of service, or any other matter relating to the proposed fire service area; and

(d) pass a resolution creating the fire service area. The area is created effective 60 days after passage of the resolution unless by that date more than 50% of the property owners of the proposed fire service area protest its creation.

(3) Based on testimony received in the public hearing, the board in the resolution creating the fire service area may establish different boundaries, establish a different fee schedule than proposed, change the kinds, types, or levels of service, or change the manner in which the area will provide services to its residents.

(4) The board of county commissioners may alter the boundaries or the kinds, types, or levels of service or dissolve a fire service area, using the procedures provided in subsection (2). The board of county commissioners shall alter the boundaries of a fire service area to exclude any area that is annexed by a city or town, using the procedures provided in subsection (2). Any existing indebtedness of a fire service area that is dissolved remains the responsibility of the owners of property within the area, and any assets remaining after all indebtedness has been satisfied must be returned to the owners of property within the area."

Section 25. Repealer. Sections 7-33-2122, 7-33-2204, and 7-33-2207, MCA, are repealed.

Section 26. Coordination instruction. If Senate Bill No. 145 and [this act] are both passed and approved, then 7-33-2202 must read as follows:

"7-33-2202. Functions of county governing body. (1) The county governing body, with respect to rural fire control, shall carry out the specific authorities and duties imposed in this section:

~~(1)~~(2) The governing body shall:

(a) provide for the organization of volunteer rural fire control crews; and

(b) provide for the formation of county volunteer fire companies.

~~(2)(3)~~ The governing body shall appoint a county rural fire chief and ~~such~~ as many district rural fire chiefs, subject to the direction and supervision of the county rural fire chief, as it considers necessary.

~~(3)(4)~~ The Pursuant to 76-13-105(3), the county governing body shall, within the limitations of 7-33-2205, through 7-33-2209 7-33-2206, 7-33-2208, and 7-33-2209, either:

(a) directly protect the range, farm, and forest lands within the county from fire land in the county that is not in a forest fire protection district, as provided in 76-13-204, or under the protection of a municipality, state agency, or federal agency; or

(b) enter into an agreement for forest fire protection with a recognized agency, as that term is defined in 76-13-102.

~~(4)(5)~~ The county governing body may enter into mutual aid agreements for itself and for county volunteer fire companies with:

- (a) other fire districts;
- (b) unincorporated municipalities;
- (c) incorporated municipalities;
- (d) state agencies;
- (e) private fire prevention agencies;
- (f) federal agencies;
- (g) fire service areas; or
- (h) governing bodies of other political subdivisions.

~~(5)(6)~~ If the county governing body has not concluded a mutual aid agreement, the county governing body, a representative of the county governing body, or an incident commander may request assistance pursuant to 10-3-209."

Section 27. Codification instruction. [Section 11] is intended to be codified as an integral part of Title 7, chapter 33, part 21, and the provisions of Title 7, chapter 33, part 21, apply to [section 11].

- END -

Latest Version of SB 103 (SB0103.ENR)

Processed for the Web on May 1, 2007 (2:54pm)

New language in a bill appears underlined, deleted material appears stricken.

Sponsor names are handwritten on introduced bills, hence do not appear on the bill until it is reprinted.

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